

2012 BURLINGTON LEGISLATIVE REVIEW



July 2012

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MEMORANDUM

To: Mayor Weinberger & City Council
FROM: Karen Lafayette & Erhard Mahnke
DATE: July 5, 2012
RE: 2012 Burlington Legislative Report

It was our pleasure to represent the City of Burlington's interests in Montpelier again this year. Attached please find our report on the final status of bills and issues we followed for the City during the 2012 session. We hope that it provides a helpful retrospective.

As in other years, 2012 saw the Legislature consider a large number of bills affecting Burlington. We worked with Mayor Weinberger, former Mayor Kiss, department heads, other City officials, Burlington representatives and Chittenden County senators on the issues identified in the report. Our work included preparing and giving testimony before various committees, as well as arranging and co-ordinating the testimony of City officials. We also performed research, produced and disseminated informational pieces, and held meetings and informal conversations with legislators and State officials. We alerted both Mayors and appropriate City staff to bills and other State House developments affecting Burlington's interests, assessed their impact on the City, and kept close tabs on them as they moved through the Legislature.

Our work was made easier by the support we enjoyed from Mayors Weinberger and Kiss and their staff – especially during the transition this spring – as well as from department heads and other City officials, many of whom joined us on a number of occasions at the State House to testify before numerous committees on a wide array of issues and bills and for meetings convened with the legislative delegation. Our job was further made easier by the hard work and considerable skill of all our Burlington representatives and Chittenden County senators. We appreciate their efforts on behalf of the City.

Many thanks also to Steven Jeffrey, Karen Horn and the rest of the dedicated staff at the Vermont League of Cities and Towns (VLCT, the League), with whom we worked closely throughout the session. The League's excellent "[2012 Legislative Wrap-Up](#)" is available online and provides further detail on many issues covered in our report, as well as a number of issues of general interest to municipalities that we were not directly involved in.

If you have questions or concerns, as always, please feel free to contact either of us via the email addresses or phone numbers listed above. As in past years, we will monitor off-season meetings of relevant legislative committees over the summer and fall. We welcome the opportunity to represent the City in Montpelier.

Thank you.

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EXECUTIVE SUMMARY

This was the second year of undivided government in Vermont, with the Shumlin administration fully established and strong Democratic majorities in both the House and Senate. One might have expected that administration initiatives would have smooth sailing through the House and Senate and that both bodies would work in a unified and disciplined manner. While House and Senate leadership were mostly amenable to the Governor's budget and key policy initiatives, they did block and/or substantially modify some measures. And while the House accomplished its work in a mostly smooth and disciplined manner, the Senate went about its business in a far less orderly fashion, especially in the waning weeks and days of the session.

This was also a year when both the Legislature and administration were expected to deal mostly with the seemingly overwhelming and multi-faceted task of rebuilding after Tropical Storm Irene, which involved everything from finding the funds to rebuild heavily damaged State and municipal infrastructure, to helping Vermonters who lost homes and livelihoods, helping businesses to re-establish themselves, deciding whether to rebuild or relocate the Waterbury State office complex, and finally resolving the long-standing issue of replacing the Vermont State Hospital and redesigning the State's mental health system. In the end, they addressed all these complex issues, while also resolving the fifth budget deficit in a row and continuing down the path to comprehensive health care reform.

In spite of the major focus on recovery from Irene, health care and fiscal issues, 335 new bills were introduced in the House and 141 in the Senate. This was in addition to the 460 House bills introduced in the first year of the biennium and 111 Senate bills, all of which could still be considered. Of these, 77 House and 38 Senate bills became law (in addition to 50 House and 24 Senate bills in 2011). Among them were major bills that redistricted the House and Senate, adopted mandatory recycling, addressed renewable energy, made the commissioner of education a member of the governor's cabinet, provided property tax relief, banned fracking, and instituted new protections for Lake Champlain and the state's rivers and streams.

Because this was the second year of a legislative biennium, all bills that did not pass are dead and cannot be considered during the next session unless reintroduced. Legislative activity over the summer and fall will again be high, especially for an election year, when activity usually subsides. With various legislative committees and "summer study" work groups meeting on a monthly basis, the work of our lawmakers now continues throughout the year.

What follows is a summary of Burlington's legislative highlights. Additional legislation affecting municipal interests in general was summarized in the Vermont League of Cities and Towns' (VLCT's) excellent "2012 Legislative Wrap-Up," which is available here: <http://tinyurl.com/dygecas>. In order to avoid duplicating the League's report, this retrospective focuses more closely on those municipal issues that affect the City's specific interests. We have included several of the League's and the Legislative Council's summaries that we thought were especially well done.

Education Tax Rate – Of all the impacts that annual legislative action has on municipalities, setting statewide property tax rates for education and providing funding for schools is probably the greatest. The 2012 Miscellaneous Tax Bill set the statewide homestead education tax rate at \$0.89 per \$100 of assessed value and the non-homestead rate at \$1.38, each two cents above the FY 2012 rates. This was the second year of increases to these tax rates, which have held relatively steady since 2007, after declining for most of the previous decade. The statewide base education spending per equalized pupil saw its first increase in four years, from \$8,544 to \$8,723. When adjusted for Burlington's Common Level of Appraisal (CLA), as well as for district spending, the homestead rate translates into a local rate of \$1.4302, up thirteen cents from \$1.3019 this year. The non-homestead rate translates into a local rate of \$1.5684, up 2.5 cents from \$1.5441. The maximum percentage of income that an income-sensitized household pays for education taxes

remained at 1.80%. The maximum annual household income to qualify for full income sensitivity remained at \$90,000. Beginning in 2013, homestead declarations must again be filed annually. In addition, several modest adjustments were made to how property tax income sensitivity adjustments and the renter rebate are calculated.

Privacy of Property Tax Information – The Miscellaneous Tax bill specified that property tax adjustment amounts are confidential, while the gross (pre-adjustment) amount of tax and the property tax assessment remain public. In addition to the property owner, income sensitivity information may be provided to certain individuals involved with a real estate transaction concerning a property. The bill codifies in law the Manchester decision, which established the privacy of income sensitivity information. The City has long maintained that income sensitivity information should be considered private because it could easily be used to estimate a taxpayer's private income information.

State Budget -- This was the fifth consecutive year of difficult budgets due to yet another year of deficits, as well as the challenges of funding recovery from Tropical Storm Irene. The year started out with a \$61 million budget gap projected for FY 13. This was nonetheless considerably less than the \$176 million shortfall appropriators faced at the beginning of 2011 for FY 12. In spite of the shortfall, appropriators were able to balance the budget while avoiding some of the painful cuts faced in the worst years of the recent "Great Recession." Other than State education funding, the City has only a few State budget line items from which it derives direct benefit.

Payments in Lieu of Taxes (PILOT) – The PILOT program is designed to reimburse cities and towns for a portion of the municipal property tax revenues they lose because they host State owned buildings and lands that are exempt from property taxes. PILOT payments help support the municipal police, fire, highway, and other public services from which State facilities benefit. For FY 2013, the overall PILOT budget for general State buildings is \$5.8 million, same as for FY 12. The Tax Department estimates that Burlington will receive \$710,810, the second consecutive year of decreases. The FY 12 amount was \$746,272, the FY 11 amount \$793,058. The City's reduction stems from a combination of changes in state owned property in the City and around the state. This year PILOT was once again funded exclusively from the 30% share of local option taxes that go to the State. A separate bill, Act 128, included a change in the amount the state charges local option tax towns as an administrative fee for collecting the tax on their behalf. As a result of the change, Burlington's fees will be reduced by \$34,506, increasing the local option revenues the City gets to keep.

Justice Reinvestment Funding –Through a variety of initiatives, DOC's base budget for "justice reinvestments" has increased by over \$6.4 million since 2008. Lawmakers have invested in a variety of measures intended to generate savings, including transitional housing for ex-offenders re-entering the community, Community Justice Centers (CJCs), increased Corrections field services staff, substance abuse treatment, electronic monitoring equipment, and more. DOC invests approximately \$1.9 million annually in the operating budgets of the state's 13 CJCs and 4 restorative justice programs. Burlington's CJC received \$268,000 in FY 12; the exact amount for FY 13 is as yet uncertain. Chittenden County's innovative Rapid Intervention Program saw an increase of \$14,000 for FY 13, bringing annual base funding up to \$114,000. The program also received an additional \$7,000 through the FY 12 Budget Adjustment Act.

Alcohol & Drug Abuse Funding (ADAP) – The budget includes an increase of just over \$800,000 to increase the capacity of current providers, including methadone maintenance, Maple Leaf Farm and the Lighthouse public inebriates program. ADAP and various other departments in the Agency of Human Services are collaborating in an Agency-wide initiative with community substance abuse treatment providers and organizations to develop a "Hub and Spoke" style system for patients requiring buprenorphine and methadone treatment for opiate dependency. The "Big Bill" also provides an additional \$100,000 for the Recovery Center Network statewide, increasing total

funding for the 11 centers to \$705,000, including \$65,000 for Burlington's Turning Point Center. The bill includes language asking the network's advisory board to develop a set of standards, core services, and monthly performance measures that should position the network to receive additional funding in FY 14.

Redistricting -- Burlington and Winooski now comprise a twelve-seat district of Representatives. Burlington gained a 10th seat and continues to share a portion of its Ward 1 neighborhood (a much smaller portion) with Winooski which retains its two seats. A new single member district without an incumbent was also created. The Chittenden County Senate representation is still six senators with one major change that moves Huntington and Buel's Gore to the Addison County district. The plan adopted by the House and that is now law is the plan submitted by the Burlington Board of Civil Authority. The new district boundaries are in effect for this year's elections and will remain in effect until the next round of redistricting ten years from now.

Charter Changes -- City voters approved three charter changes on town meeting day in 2012. Sponsored by the entire Burlington delegation, the charter changes were combined into one bill that moved smoothly through both chambers. The three components: (1) increased annual City borrowing for capital improvements from \$1 million to \$2 million, (2) increased annual Burlington Electric borrowing for capital improvements from \$1 million to \$3 million, and (3) increased the exemption from the business personal property tax from \$2,500 in value to \$45,000. At the City's request, the Legislature also passed a bill clarifying that the City still had authority to issues \$1.25 million in additional school bonds authorized by charter change in 2009 but never issued. Without this bill, current improvements to the Flynn School would have been delayed for at least a year.

Tax Incremental Financing (TIF) -- Following a commitment by the House Speaker and Senate President Pro Tempore during the 2011 session, Burlington and other municipalities testified on TIF for the first time in a number of years in the House Ways and Means Committee. Senate Finance has taken frequent testimony and changes to the TIF law have generally come from Senate side. However, no action was taken on legislative changes desired by the TIF towns because only two of the State Auditor's TIF reports on the four "active" TIF towns had already been completed (Milton and Newport) while two were still pending (Burlington and Winooski). In addition, the complexity of the underlying legislation and the changes made through the years made it difficult for legislators to figure out how best to move forward to resolve outstanding issues from both the State's perspective and at the municipalities' request. The Legislature also wanted to wait for all four audits to be completed before considering further changes to the TIF statute. Both the City's response to the draft audit and the final audit itself have since come out. The Auditor was to have issued a "Capstone Report" sometime in June.

Cloud Computing -- The Miscellaneous Tax Bill institutes a temporary moratorium on the enforcement of the sales tax on so-called "pre-written software" until July 1, 2013. The legislation refunds the taxes that were collected since December of 2006.

Health Care -- "This year, the legislature continued down the path of health care system reform, culminating in the passage of H.559, 'An Act Relating to Health Reform Implementation.' The intent of the bill is to continue to prepare for Green Mountain Care, a single-payer health system that will provide 'comprehensive, affordable, high-quality, and publicly financed health care coverage for all Vermont residents in a seamless manner regardless of income, assets, health status, or availability of other health coverage.' The bill establishes the parameters of the Health Benefit Exchange that is required by the federal ACA (Accountable Care Act), further defines and expands the role of the Green Mountain Care Board, and imposes some changes on the health insurance market, among a variety of other changes. Of particular interest to municipalities is the establishment of the Health Benefit Exchange that will start providing health insurance plans effective January 1, 2014."¹

¹ From "2012 Legislative Wrap-Up," Vermont League of Cities and Towns, <http://tinyurl.com/dygecas>.

Expungement of Criminal Records – Act 131/S.37, an act relating to expungement and sealing of criminal history records, is a compromise version of competing Senate and House bills passed last year that could not be reconciled before the close of the 2011 session. The legislation creates a process for expunging or sealing the record of an arrest or conviction for most nonviolent misdemeanors. The legislation allows Vermonters who have been arrested and convicted of minor crimes more than 10 years ago, but who haven't been in trouble with the law for decades, to petition the court to have their records expunged or sealed, under certain conditions. Expungement applies not just to the criminal conviction record, but also to police and prosecutorial investigative records, which has caused deep concern for Chief Schirling and other law enforcement officials. As an alternate, the court may order that the criminal history record be sealed if that "better serves the interests of justice," which would preserve some access by police to their investigative records, but is still problematic.

Energy – Act 170/S.214 expands the "standard offer" program that is designed to provide incentives for small renewable energy projects. It allows Vermont utility customers to opt out of using advanced electric meters that use intermittent radio frequency signals to transmit data to utilities ("smart meters"), and prohibits utilities from charging customers an extra fee for opting out. The bill did not include a renewable portfolio standard, which for the first time would have additionally required Vermont utilities to purchase and account for set amounts of renewable energy above and beyond their standard offer requirements. H.769, the Fee Bill, increases a variety of fees charged by the Department of Environmental Conservation, including an annual registration fee on plants emitting more than 10 tons of certain air contaminants. BED was able to get a \$64,000 cap on the fee charged for renewable energy plants, saving McNeil \$8,000 - \$10,000 annually. Act 127/H. 679 set a property tax rate of \$4 per kilowatt for large solar projects to provide for uniform taxation. Act 125/H.475 became the latest in what's become an annual effort to increase and enhance the "net metering" benefits for customers who install renewable energy projects.

Transportation – The T-Bill provides \$2.27M for the Champlain Parkway, including \$120,000 for continued Preliminary Engineering (PE), \$150,000 in Right of Way funding, and \$2 million for construction. These amounts are expected to suffice for the project to move forward during the current fiscal year as originally scheduled. However, appeals of the recent Act 250 decision will delay the project further. The T-Bill also includes funding to repave Main Street from Willard Street extending 3.12 miles eastward; federal pass-through funding for improvements to the Church Street Marketplace, intersecting streets, and the Waterfront; Preliminary Engineering and Right of Way funding for the Shelburne Road round-about; sidewalk construction on Flynn and Colchester Avenues and Cliff Street; improved pedestrian signalization at several intersections along North Avenue; and the state's share of maintaining quiet zone railroad crossings.

Affordable Housing – Vermont Housing and Conservation Board (VHCB) funding was increased by \$1.2 million to just under \$14 million. VHCB has been a mainstay funding source for all the City's affordable housing initiatives over the last 25 years, as well as for major conservation and recreational amenities. Funding for homeless shelters and homelessness prevention through the state's Emergency Shelter Grant and General Assistance Programs were level funded. The state created two rental assistance programs, one for families on Reach-up and disability income, a second for people with mental health disabilities. Funding for offender re-entry housing and support services was increased by another \$842,000, for a total annual expenditure of \$5.1 million. The state has sought steady annual increases over the last several years to help reduce costly recidivism. All other housing related programs that Burlington non-profits rely on were level funded. A major housing bill passed, which enacts a broad variety of measures related primarily to mobile homes, but that also affect housing in general, including prohibiting discrimination against affordable housing in land use decisions, increasing the time mobile home residents have to negotiate the purchase of a mobile home park, and funding for an ambitious mobile home financing plan, among others. The Miscellaneous Tax Bill lifts the cap for state tax credits awarded for

owner-occupied units by \$200,000 a year, and lifts the total cap of allowed credits by \$1,000,000. This will generate approximately \$900,000 in additional tax credit equity every year. The Legislature's intent is to use the increased credit, at least initially, to help replace mobile homes destroyed by Irene, and for housing that is energy efficient.

Environmental Protection – The Legislature passed a number of bills related to environmental protection and permitting. They included:

- Act 148, which substantially revises Vermont's solid waste laws and seeks to reduce the volume of waste sent to landfills and divert the maximum amount of materials to recycling, reuse, or composting;
- Act 73, which affords Vermonters affected by environmental violations a greater opportunity to weigh in when decisions are being made about penalties for the violations;
- Act 138, which regulates flood hazard areas, river corridors and stream alteration, and asks the Agency of Natural Resources for recommendations on how best to remediate the water quality of state surface waters; and
- Act 91, which amends the stormwater statutes so as to recodify a "net zero standard" for stormwater impaired watersheds.

BURLINGTON/CHITTENDEN DELEGATION & COMMITTEE ASSIGNMENTS

The work of the City's legislative liaisons at the State House was made easier by the hard work and considerable skill of all our Burlington representatives and Chittenden County senators. We thank them for their efforts on behalf of the City. Here is a complete list of the delegation members and the committees on which they sit. We include Senator Mazza who, though he represents the "Grand Isle District," is from the Chittenden County town of Colchester and helps look out for Burlington and Chittenden County interests:

Chittenden County Senators & Committees

Sen. Tim Ashe

- Economic Development, Housing & General Affairs (Vice-Chair)
- Finance

Sen. Philip Baruth

- Agriculture (Clerk)
- Education (Clerk)

Sen. Sally Fox

- Health & Welfare
- Finance (Clerk)

Sen. Ginny Lyons

- Natural Resources & Energy (Chair)
- Education (Vice-Chair)

Sen. Hinda Miller

- Health & Welfare
- Appropriations

Sen. Diane Snelling

- Judiciary (Clerk)
- Appropriations

Sen. Dick Mazza

- Transportation (Chair)
- Institutions (Vice-Chair)

Burlington/Winooski Representatives & Committees

Chittenden-3-1

- Rep. Bill Aswad – Transportation
- Rep. Kurt Wright – Natural Resources & Energy

Chittenden-3-2

- Rep. Jean O'Sullivan – General, Housing & Military Affairs
(appointed to replace former Rep. Mark Larson who resigned to become Commissioner of the Department of VT Health Access)

Chittenden-3-3

- Rep. Jason Lorber – Corrections & Institutions
- Rep. Jill Krowinski – Human Services
(appointed to replace former Rep. Rachel Weston who resigned to take a job abroad)

Chittenden-3-4

- Rep. Kesha Ram - Ways & Means
- Rep. Chris Pearson – Health Care

Chittenden-3-5

- Rep. Joey Donovan – Education (Chair)
- Rep. Suzi Wizowaty – Judiciary (Clerk)

Chittenden-3-6

- Rep. Ken Atkins – Government Operations (Vice-Chair)
- Rep. Clem Bissonnette - Transportation

EDUCATION

Education Funding & Property Taxes (H.782/Act 143)

Of all the impacts that annual legislative action has on municipalities, setting statewide property tax rates for education and providing funding for schools is probably the greatest. These rates are set annually based on a variety of factors, including (1) the expected value of the State's Education Grand List, (2) anticipated statewide school spending, and (3) contributions to the Education Fund from other sources, the largest being the State's General Fund. The 2012 Miscellaneous Tax Bill set the statewide homestead education tax rate at \$0.89 per \$100 of assessed value and the non-homestead rate at \$1.36, each two cents above the FY 12 rates. This was the second year of increases to these tax rates, which have held relatively steady since 2007, after declining for most of the previous decade. Beginning in 2013, homestead declarations must again be filed annually. In addition, several modest adjustments were made to how property tax income sensitivity adjustments and the renter rebate are calculated.

Escalating property values throughout much of the previous decade enabled steady tax rate reductions until the Great Recession began several years ago. As property values leveled off and began to decline, so did revenues flowing into the Ed Fund, requiring tax rates to level off and then increase. Vermont did not, however, see the substantial decline in its real estate values that afflicted many other states: The state's Education Grand List grew by 6.9% in FY 2010 and by 2.2% in FY 11. Its value is expected to drop for the first time in FY 12, by 1.6%, and to drop another 1.5% each year in FY 13 and 14.² After that, an extended period of very low home price appreciation is anticipated. As a result, the Education Grand List will not approach 2011 levels until 2015 and will not likely exceed peak levels reached in 2009 until 2016.³ Other factors being equal, declining values will continue to create upward pressure on tax rates to fund education.

Meanwhile, School Boards helped keep the education tax rate relatively stable over the last two years by holding overall statewide school spending down. The statewide education spending growth rate was pegged at -0.5% for FY 12. However, the outlook for FY 13 and FY 14 is for increases of 3% and 2% respectively,⁴ which will add to the pressure on education tax rates.

The third major factor in determining the statewide education tax rate is the amount the General Fund contributes to the Ed Fund, which is its second largest revenue source and was set below the statutorily required level for the fourth year in a row. For FY 13, the Legislature appropriated \$282.3 million, which is about \$6 million higher than the year before, but \$27.5 million below the \$309.8 million it should have been had the law not been changed last year. Originally required to increase with a regional price index, the Legislature reduced the General Fund contribution for FY 10 and 11, when federal stimulus (ARRA) funds were available. Last year it recalibrated the amount of aid, requiring higher statewide education tax rates than might have been necessary in succeeding years.

To correct this situation, the House proposed pledging future revenue surpluses to restore the General Fund contribution over time and hold down property tax increases. The FY 13 Appropriations Act ended up including language dedicating 50% of any surplus revenue at the end of the fiscal year to a supplemental property tax relief fund, half to increase the transfer to the Ed Fund, half for other property tax relief, like incentives to control education spending, reducing the base percentage of income for income sensitivity, increasing the base education payment and the like. The increased amount transferred to the Ed Fund will be added to the base amount used to calculate the General Fund transfer going forward. All of these provisions sunset on June 30, 2014. In another effort to keep property tax increases down, the Legislature

² "Education Fund Outlook," Joint Fiscal Office, April 26, 2012, <http://tinyurl.com/6o5p6j9>.

³ "January 2012 Economic Review and Revenue Forecast Update," Kavet, Rockler & Associates, <http://tinyurl.com/74txrz9>.

⁴ "Education Fund Outlook," Joint Fiscal Office.

increased the allocation of sales tax revenues to the Ed Fund from 33.3% to 35%. The rest go to the General Fund.

Burlington Education Tax Rates:⁵ When adjusted for Burlington's Common Level of Appraisal (CLA), as well as for school district spending, the statewide homestead rate translates into a local rate of \$1.4302, up 13 cents from \$1.3019 this year.⁶ A portion of the increase is due to required accounting changes estimated retirement costs for non-teaching staff and FICA reimbursement from the City to the schools. The non-homestead rate translates into a local rate of \$1.5684, up 2½ cents from \$1.5441. For FY 13, the Tax Department set our CLA at 87.99%. The statewide base education spending per equalized pupil, set annually by the Legislature, saw its first increase in four years, from \$8,544 to \$8,723. At \$12,333, Burlington's FY 13 education spending per equalized pupil is 141% above that. The maximum percentage of income that an income-sensitized household pays for education taxes remained at 1.80%, the same as for the last several years.⁷ When adjusted for school spending, this translates into a local maximum education tax payment of 2.545% of annual income for income-sensitized Burlington taxpayers.

The maximum annual household income to qualify for full income sensitivity remained at \$90,000. For people over that income limit and who therefore qualified only for partial income sensitivity, the homestead (or "housesite") value on which they receive income sensitivity remains capped at \$200,000. Renters and homeowners under \$47,000 a year continue to receive protection through the property tax and renter rebates⁸ -- on both their education and municipal property taxes (changes to the renter rebate and income sensitivity described below). The following table illustrates the various factors that determine Burlington rates over four years:

Tax Rate Multi-Year Comparison of Homestead Education Tax Rates ⁹	Act 68 FY 2010	Act 68 FY 2011	Act 68 FY 2012	Act 68 FY 2013
Base equalized statewide homestead education tax	\$0.86	\$0.86	\$0.87	\$0.89
Budgeted Burlington education expenditures, total	\$49,903,088	\$51,932,746	\$53,391,029	\$58,788,861
Burlington education spending per equalized pupil	\$10,841	\$11,173	\$11,261	\$12,333
Statewide education spending per equalized pupil	\$8,544	\$8,544	\$8,544	\$8,723
Burlington tax rate adjustment for local spending above statewide base	126.88%	130.77%	131.80%	141.39%
Common Level of Appraisal (CLA)	88.04%	87.72%	88.08%	87.99%
Burlington local homestead rate (State rate x local spending adjustment ÷ CLA)	\$1.2394	\$1.2820	\$1.3019	\$1.4302
Statewide maximum percentage of household income paid for education tax	1.80%	1.80%	1.80%	1.80%
Burlington maximum percentage of income paid for education tax, adjusted for local spending	2.284%	2.354%	2.372%	2.545%
Maximum household income eligibility limit for full income sensitivity	\$90,000	\$90,000	\$90,000	\$90,000
Cap on housesite value for partial income sensitivity	\$200,000	\$200,000	\$200,000	\$200,000
Non-Homestead Education Tax Rates				
Statewide non-homestead education tax	\$1.36	\$1.35	\$1.36	\$1.38
Burlington local non-homestead rate (State rate÷CLA)	\$1.4564	\$1.5334	\$1.5441	\$1.5684

⁵ See "Burlington Homestead Education Tax Rate Calculation," Tax Department, 6/28/12, <http://tinyurl.com/7f3j6pj>.

⁶ The local homestead rate is computed by multiplying the statewide rate by the percentage of local spending above the statewide base education spending per equalized pupil and dividing by the City's CLA. The non-homestead rate is adjusted only by dividing by the CLA.

⁷ To determine the actual maximum percentage an income-sensitized household pays for education taxes, multiply the statewide percentage by the local district's spending adjustment.

⁸ By law the renter rebate attributes 21% of rent paid to property taxes.

⁹ Adapted from the above-cited Tax Department information and the FY 13 school budget information at <http://bsdweb.bsdvt.org/Board/BoardBudget.php>.

Additional background information on how Vermont finances education, how education tax rates are established, and on income sensitivity can be found on the “Vermont Transparency” website at <http://tinyurl.com/7adknps>.

Other Education Tax Related Changes (H.782/Act 143)

Privacy of Property Tax Information: The Miscellaneous Tax bill specified which tax bill information is public and which is confidential and who may access that information. Property tax adjustment amounts are now “confidential” information. This means that while property tax bills sent to property owners will show that amount of tax due from the owner (i.e., net of adjustment), bills and information given to others will show only the gross (pre-adjustment) amount of tax. In addition to the property owner, municipal officers and the Tax Commissioner may provide income sensitivity information to certain individuals involved with a real estate transaction concerning the property, such as an escrow agent, town auditor, lawyer or assistant, bank or credit union employee, realtor, certified public accountant, or any other person approved by the taxpayer. The bill also requires towns to create and send an alternate tax bill to the taxpayer showing the property tax adjustment and the net tax due. The bill codifies in law the Manchester decision, which established the privacy of income sensitivity information. Separate legislation (H.515/Act 70) passed earlier in the session took care of the interim period after the Manchester decision, covering municipalities that released income sensitivity records before the decision made them private. The City has long maintained that income sensitivity information should be considered private because it could easily be used to estimate a taxpayer’s private income information.

Income sensitivity: The Miscellaneous Tax Bill made a number of modest adjustments to income sensitivity, the renter rebate, and miscellaneous provisions of education tax law:

- Housesite value: Currently there is a \$500,000 cap on equalized housesite value that can be claimed for property tax income sensitivity adjustment purposes. Originally enacted in 2010, the cap was scheduled to sunset for claims filed after January 1, 2013. The Miscellaneous Tax Bill eliminates this sunset, making the cap permanent.
- Renter rebate: The maximum amount a claimant can receive through the renter rebate was lowered from \$8,000 to \$3,000. This change is effective for rebates paid in 2013.
- Household income: Beginning with claims filed after January 1, 2013, several changes were made to what is included in household income for purposes of calculating property tax income sensitivity adjustments:
 - Interest and dividend income over \$10,000 will continue to be counted twice in household income for claimants under age 65. A similar provision without the age ceiling was repealed.
 - Health savings account deductions for self-employed individuals will be excluded from the definition of household income for purposes of property tax adjustment.
 - A claimant who has two or more businesses operating as sole proprietorships may net the loss of one against the income of another as long as both are incurred in the same tax year.
- Veterans’ income sensitivity: Veterans no longer need to have served in a war to be eligible for the \$10,000 reduction in assessed value from their residence. For tax claims after January 1, 2012, all veterans are eligible for this reduction in value.
- Homestead declarations: Beginning in 2013, homestead declarations are again required to be filed annually. However, a special 2013 transition provision allows the Commissioner to provide a remedy for a taxpayer who fails to file or files an inaccurate classification through no fault of the taxpayer.

- Claim deadlines: Property tax adjustment and renter rebate claims continue to be due April 15 each year, but late claims will now be accepted until October 15 (final deadline was September 15). The Tax Commissioner is to notify cities and towns of late claims on November 1.

Property Tax Abatements (H.461/Act 67): Municipalities that abated taxes assessed on property lost or destroyed due to the May 2011 flooding or Irene can apply for reimbursement of education taxes. The abatement had to have been granted prior to April 15, 2012.

Municipalities that demonstrated that due to disruption to tax collections resulting from such flooding they incurred unanticipated interest expenses on funds borrowed to make payments to the Education Fund are also eligible for reimbursement of the reasonable interest expense incurred.

Education Law Changes¹⁰

Secretary and Agency of Education (H.440/Act 98): Starting in January, Act 98 elevates the Department of Education to the Agency of Education, and the Commissioner, who has been appointed by the Board of Education, will be a cabinet-level Secretary appointed by the Governor. The Board of Education will remain an independent body charged with establishing education policy for the state and nominating candidates for Secretary. The Secretary will be responsible for all duties formerly assigned to the Commissioner of Education, including management of the Agency and implementation of all the state's education laws and policies.

Statewide Public School Choice (S.113/Act 129): As of the 2013-2014 school year, Vermont public high school students may apply to attend any public high school in the state. This ends Vermont's current system of regional high school choice. School boards can limit the total number of 9th – 12th grade students, as well as the number of students in any individual grade, that can transfer out. The bill establishes the minimum number that school boards must allow to transfer out. Tuition is not paid for these students unless the sending and receiving schools agree on a tuition amount. As under current statute, schools can still set limits on the number of students they receive each year. Sending schools remain responsible for special and technical education expenses. Students enter a lottery system if more students want to transfer than allowable under a district's limits, as is currently the case.

Harassment, Hazing & Bullying Policies (S.113/Act 129): In addition to harassment and hazing policies, which are already required, this bill requires all school boards to adopt a bullying prevention policy at least as stringent as the Commissioner of Education's model policy by January 1, 2013. The model policy will be in effect for school districts whose boards fail to adopt any of the three required policies. The Commissioner of Education will establish an advisory council to review and coordinate school and statewide activities related to the prevention of harassment, hazing and bullying. Under a separate bill (H.412/Act 140), the Legislature established a standard for holding schools liable in a civil action alleging that a school failed to respond appropriately to allegations of harassment.

APPROPRIATIONS & CAPITAL BILLS

(H.781/ACT 162; H.446/ACT 40)¹¹

This was the fifth consecutive year of difficult budgets due to yet another year of deficits, as well as the challenges of funding recovery from Tropical Storm Irene. The year started out with a

¹⁰ For more information on education legislation, see the joint legislative summary of the Vermont School Boards, Principals' and Superintendents Associations at <http://www.vtvsba.org/legis/2012/2012-final.pdf>.

¹¹ The League's table showing FY 2013 appropriations of general interest to municipalities, including transportation funding, is included in the attachments. Also included is the League's table summarizing the FY 12–13 Capital Bill and adjustments made to it this year.

\$61 million budget gap projected for FY 13. This was nonetheless considerably less than the \$176 million shortfall appropriators faced at the beginning of 2011 for FY 12. Major pressures on the budget that helped create the gap included:

- \$20.5 million because of a loss of Federal Medicaid Match (FMAP);
- \$14 million due to increased retirement costs
- \$13.6 million for increases to State employee compensation, the majority to make up the expiring 3% and 5% reductions in salaries agreed to by the union several years before to help with deficit reduction;
- \$6 million to replace special tobacco funds which are no longer available.

In spite of these shortfalls and a continued refusal by the Governor and legislative leadership to resort to “broad-based” tax increases or tap the State’s “rainy day” fund, appropriators were able to balance the budget while avoiding some of the painful cuts faced in the worst years of the recent “Great Recession.” The budget restored cuts initially proposed by the administration to childcare, independent living for disabled Vermonters, families relying on public assistance, and services that allow seniors to spend their later years at home rather than a nursing home. In addition, the budget rebuilds the state after Tropical Storm Irene, replenishes various reserve funds, and sets aside future funding for the property tax relief measure described above.

Other than State education funding, the City does not have many budget line items from which it derives direct benefit. Nevertheless, the City continued to be concerned about the potential for State budget cuts and cost shifts onto the Ed Fund to result in service reductions that have a direct impact on the City and place additional burden on Burlington property taxpayers. For example, reduced ability on the part of Corrections staff to supervise parolees and others under their supervision would put an increased burden on the Police Department, as would reductions in mental health spending. Cutbacks in human services and housing and State employee reductions negatively affect the City’s substantial population of low-income people living on fixed incomes or working low-wage jobs. Fortunately this year’s budget deficit did not result in significant additional cuts to social service spending.

The following items in the “Big Bill” (FY 13 Appropriations Act) have direct impact on the City’s budget. Last year the Capital Bill was crafted as a two-year bill, appropriating capital funds for both FY 12 and FY 13. This year substantial adjustments were made to address expenses resulting from Irene, but included no new funding for Burlington projects.

Payments in Lieu of Taxes (PILOT)

The PILOT program is designed to reimburse cities and towns for a portion of the municipal property tax revenues they lose because they host State owned buildings and lands that are exempt from property taxes.¹² PILOT payments help support the municipal police, fire, highway, and other public services from which State facilities benefit. For FY 2013, the overall PILOT budget for general State buildings is \$5.8 million, same as for FY 12. The Tax Department estimates that Burlington will receive \$710,810, the second consecutive year of decreases.¹³ The FY 12 amount was \$746,272, the FY 11 amount \$793,058. The City’s reductions stem from a combination of changes in state owned property in the City and around the state.

Until several years ago, PILOT was funded through a combination of the State’s 30 per cent share of local option tax revenues and General Fund moneys. As more towns adopted local

¹² The State has four separate PILOT funds to pay cities and towns for different types of properties: (1) general State buildings, (2) corrections facilities, (3) Agency of Natural Resources lands, and (4) State-owned properties in Montpelier. Burlington receives payments from the first of these funds.

¹³ See “FY13 Estimate of Payments-in-Lieu-of-Taxes (PILOT) to Municipalities,” VT Tax Department, <http://tinyurl.com/6wqtzfx>.

sales and rooms and meals taxes, the State's revenue from local option taxes increased, allowing it to completely eliminate General Fund contributions to PILOT. In spite of increases to the PILOT fund over the years, the State's reimbursement to municipalities has dropped. For FY 13 it was prorated by a factor of 73% (it was 77% in FY 12). To fully fund PILOT, the State would have had to appropriate over \$7.9 million, which would have yielded an estimated \$969,026 for the City. The City's PILOT allocation is based on the April 2011 grand list of State properties in the City. The State uses insurance replacement value, which is considerably less than the full market value that owners of taxable properties are required to pay.

Community Justice Center & Offender Re-Entry Housing

Governor Shumlin and the Legislature's focus on saving money in the Department of Corrections (DOC) budget continued to place a major emphasis on expanding the alternatives to the traditional criminal justice system, with the goal of decreasing the number of people entering the system at the front end, and enhancing community services designed to assist community reintegration and reduce recidivism at the back end. Through a variety of initiatives, DOC's base budget for "justice reinvestments" has increased by over \$6.4 million since 2008. Lawmakers have invested in a variety of measures intended to generate savings, especially in out-of-state beds, including transitional housing for ex-offenders re-entering the community, Community Justice Centers (CJCs), increased Corrections field services staff, substance abuse treatment, electronic monitoring equipment, and more.

DOC now invests approximately \$1.9 million annually in the operating budgets of the state's 13 CJCs and 4 restorative justice programs, which together serve 31 different Vermont communities. This year saw a \$400,000 increase in State funding to the CJC's for Circles of Support and Accountability, an existing offender re-entry program funded by a federal grant that was not renewed. Burlington's CJC received \$268,000 in FY 12; the exact amount for FY 13 is as yet uncertain. Designed to reduce the number of people entering the criminal justice system and to help with offender re-entry, over the last year these programs have made use of over 700 citizen volunteers statewide to develop sanctions and restorative plans for 1,450 offenders under DOC probation supervision, and a large number who were diverted from prosecution to CJCs. These offices also monitor probation conditions for some 7,194 offenders.¹⁴

Transitional housing for offenders re-entering the community is another important issue for the City in the Corrections budget. It is critical to the success of offenders re-entering the community and helps reduce recidivism rates and overall corrections spending. In FY 12, there were 33 transitional housing programs across the state, with a total of 194 beds. Additionally, there are 6 programs with 77 beds in various stages of development. In FY 11, a total of 737 offenders were housed in transitional housing for over 50,000 bed nights, saving costly prison bed space.¹⁵

Several Burlington organizations together receive over \$800,000 in funding from this budget line item, including the Burlington Housing Authority, Northern Lights, Dismas House, and Pathways to Housing. The transitional housing budget grew from \$1.2 million in 2008 to \$4.3 million last year. For FY 13, budget writers invested another \$842,000, bringing the base budget to \$5.2 million. With 150 or more inmates in prison who could otherwise be released but for the availability of housing on the outside, these are important investments for the State.

¹⁴ FY 13 DOC budget, <http://tinyurl.com/6t3wnje>.

¹⁵ FY 13 DOC budget, <http://tinyurl.com/6t3wnje>.

The State's efforts appear to be yielding results. Based on information released by the Governor and DOC in April, the state's prison population, recidivism rate and violent crime rates are all shrinking.¹⁶

Rapid Intervention Program

For FY 13, the Corrections budget increased funding for the Rapid Intervention Program from \$100,000 to \$114,000. The program also received an additional \$7,000 through the FY 12 Budget Adjustment Act. Developed jointly by the Burlington Police Department and the Chittenden County State's Attorney's Office, the program uses rapid intervention – a pre-charge system through which non-violent offenders are directed to community-based mental health or substance abuse counseling – to keep people out of the corrections system and use rehabilitation to reform the problem behavior. Hallmarks of this innovative program include:

- Citation for arraignment which speeds up the process;
- Rapid assessment of the needs of the accused that contribute to criminal actions and the offer of optional treatment;
- Continuous monitoring of compliance with treatment and program;
- Prompt prosecutor response to lack of compliance; and
- Keeps accused out of criminal court: no criminal charge filed.

According to the State's Attorney's Department, as of the end of last year 441 accused offenders with 611 charges have participated in the program. 356 out of the 441, or 81%, have completed it successfully, helping to reduce costs to state criminal justice system in terms of time and resources spent on prosecution, court, defense, and corrections.¹⁷ The Appropriations Act calls for a report on whether or not the Chittenden County Rapid Intervention Community Court (RICC) model should be expanded statewide or to particular counties.

Recovery Center/Turning Point Funding

The FY 13 Big Bill provides an additional \$100,000 for the Vermont Recovery Network statewide, increasing total funding for the 11 centers to \$705,000. The Recovery Centers split the annual appropriation for the network evenly, so that each will receive just under \$65,000 for FY 13. The Burlington Turning Point Center receives over 32,000 visits each year, 21.6% of all visits to Recovery Centers statewide, while only receiving 9% of the funds. Recovery Centers provide multi-faceted support for people seeking recovery and their families. Their services are provided almost exclusively through the dedicated time of hundreds of volunteers. By supporting Vermonters in recovery, the centers can help the State realize cost savings in medical, justice and social services, while helping addicted Vermonters enter and maintain recovery. The Big Bill includes language asking the network's advisory board to develop a set of standards, core services, and performance measures that should position the network to become a more integral part of Vermont's system to address drug and alcohol dependency and to receive additional funding in FY 14. As funding for the Network increases, Burlington's Turning Point should receive funding that is more proportional to its percentage of people served.

Alcohol and Drug Abuse Program (ADAP)

The Health Department's ADAP budget includes an increase of over \$800,000 to increase the capacity of current providers, including methadone maintenance, Maple Leaf Farm to reduce the waiting list for residential treatment, and the Lighthouse public inebriates program. ADAP

¹⁶ "Vt. inmate population down, crime rate remains low," Associated Press, April 25, 2012, , <http://tinyurl.com/86maj9k>.

¹⁷ Department of State's Attorneys FY13 Budget, <http://tinyurl.com/7ma77gp>.

and various other departments in the Agency of Human Services are collaborating in an Agency-wide initiative with community substance abuse treatment providers and organizations to develop a “Hub and Spoke” style system for patients requiring buprenorphine and methadone treatment for opiate dependency. While this design focuses primarily on individuals with opiate addiction, it will also create a framework to support and improve the capacity of patient-centered medical homes statewide to provide a more holistic approach to health care for individuals with addiction and mental health conditions.

Church Street Marketplace Outreach Program

Spearheaded by the Church Street Marketplace District and Howard Center for Human Services, this award-winning program is a partnership between a broad variety of public, non-profit and private organizations. The program provides outreach and referral to people with psychiatric disabilities, substance abuse issues and homelessness in and around downtown. The program is funded through a variety of private donations and public funds, including State funds from the Department of Mental Health budget. State funding for the program has been level for several years at \$110,000.

Municipal & Regional Planning

The FY 13 budget level funded the Municipal and Regional Planning Fund at \$3.3 million. \$2.5 million went to the regional planning commissions to provide their core operating funding, and \$409,000 went to municipal planning grants. The balance went to the Vermont Center for Geographic Information. Funding for municipal and regional planning continues to be considerably lower than it was before the Great Recession ushered in five years of budget deficits. The original FY 09 budget was for \$4.3 million overall, with \$3 million for regional planning and \$860,000 for municipalities. FY 13 funding levels represent reductions of 23%, 14% and 52% respectively from the funding levels of four years ago.

By statute, the Municipal and Regional Planning Fund is supposed to be funded by a dedicated 17 percent share of the State’s property transfer tax (PTT). For years the Legislature has diverted transfer tax revenues away from their intended use and deposited them into the State’s General Fund to make up for budget shortfalls and other State priorities. Based on last January’s official State revenue forecast, the statutory funding level for planning in FY 13 should have been about \$4.7 million. Burlington has made extensive use of municipal planning grant funds over the years, including for the Comprehensive Development Ordinance, Municipal Development Plan, and Open Space Plan. Last year, the Planning Department received a \$15,000 grant to develop a new form-based code for Burlington’s Downtown and Waterfront area. It is the only reliable external funding source the Planning Department has for regular planning projects.

Burlington International Airport

This was the first year that the City did not seek substantial assistance from the State to help develop the new Aviation Technical Training Center. In FY 11, the project received \$300,000 in State capital funds to continue work on planning, design and permitting. The FY 12 Capital Bill included another \$150,000 to complete local, storm water and Act 250 permitting. The Aviation Tech Center is a joint project of CEDO, the Burlington Technical Center, Vermont Technical College, and the City of South Burlington. Once completed, the facility will house the Aviation Technology Program, and the new Vermont Flight Academy. Together, they will offer college level courses and training leading to FAA certification for up to 100 students each year. The current program is too small to develop the workforce needed to for the aviation industry, which has a \$2 billion impact on Vermont and is located throughout the state. Interim Airport Director Bob McEwing and CEDO’s Larry Kupferman and Nick Warner came to the State House to update the Senate Institutions Committee on project progress.

LOCAL GOVERNMENT

Redistricting (H.789/Act 93)

Act 93, “An Act Relating to Reapportioning the Final Representative Districts of the House of Representatives and the Senatorial Districts of the Senate,” was signed by the Governor on May 1. Burlington and Winooski now comprise a twelve-seat district of Representatives. Burlington gained a 10th seat and continues to share a portion of its Ward 1 neighborhood (a much smaller portion) with Winooski which retains its two seats. A new single member district without an incumbent was also created. It includes parts of the UVM campus and the central and southern Hill Sections. The Chittenden County Senate representation is still six senators with one major change that moves Huntington and Buel’s Gore to the Addison County district. An earlier proposal moving Charlotte to Addison County was scrapped.

The plan adopted by the House and that is now law is the plan submitted by the Burlington Board of Civil Authority. There was a separate plan submitted to the Government Operations Committee by seven of the nine Burlington representatives. The debate between the two competing proposals centered around two Old North End neighborhoods that switched from their current respective legislative districts. Also debated was the location of several New North End streets. The new district boundaries are in effect for this year’s elections and will remain in effect until the next round of redistricting ten years from now. Here is a link to a map showing Burlington’s new district lines: <http://tinyurl.com/7ranggr>. More detailed Burlington maps are available here: <http://tinyurl.com/7wgdnfk>.

Burlington Charter Changes (H.792/Act M12; H. 507/Act 69)

City voters approved three charter changes on town meeting day this year. Sponsored by the entire Burlington delegation, the charter changes were combined into one bill that moved smoothly through both chambers. No. M-12 (H.792), “An Act Relating to Approval of Amendments to the Charter of the City of Burlington,” passed the House on April 20, the Senate on April 28, and was signed by the Governor on May 3. Those changes included increases to:

- The annual borrowing of the City for capital improvements, from \$1 million to \$2 million,
- The annual borrowing of Burlington Electric for capital improvements, from \$1 million to \$3 million, and
- The business personal property tax exemption value, from \$2,500 to \$45,000.

Once again, the Legislature passed our charter changes in a most expeditious manner. The bill’s smooth progress through both chambers was due largely to its support from the entire Burlington/Winooski delegation. Mayor Weinberger, City Attorney Ken Schatz testified on the City’s behalf in the Government Operations Committees. The full text of the bill can be found at <http://www.leg.state.vt.us/docs/2012/Acts/ACTM012.pdf>.

Earlier in the session, the Legislature passed H. 507/Act 69, “An Act Relating to Authorizing the City of Burlington to Issue in Fiscal Year 2013 the School Bond Approved in 2009.” This bill clarified a charter change passed by Burlington voters and the Legislature in 2009 that increased annual school capital borrowing from \$750,000 to \$2 million. For a variety of issues, the City was unable to issue the additional \$1.25 million authorized in 2009 before the end of the 2009 fiscal year. As a result, the City’s legal experts advised that it seek clarification from the Legislature that the additional bonding authority could in fact still be issued in 2013. This bill also passed expeditiously with the help of the Burlington delegation and the Government Operations Committees. Having been introduced on January 10, it passed both chambers before the end of the month. Access to the additional borrowing capacity allowed the School District to begin planned improvements at the Flynn School this summer. Without it, the District would have needed to delay this work for a year or more. City Attorney Schatz, School Superintendent Jeanne Collins and Attorney Joe McNeil testified on the City’s behalf.

Local Option Tax Administrative Fee (H.761/Act 128)

Local option taxes generate \$13.5 million a year for the twelve communities that have adopted one percent sales and rooms and meals taxes locally. The State collects these taxes on behalf of the municipalities and returns 70% of the revenues to the cities and towns while keeping 30% to fund the PILOT program. Act 128 included a change in the amount the state collects as an administrative fee for collecting the taxes on behalf of the municipalities. The fee was \$9.52 per return for each business paying the tax, which the bill reduced to \$5.96 per return. This is the amount the Tax Department calculated it now actually costs them to administer the tax. The host municipalities pay the State 70% of the fee out of their share of local option tax revenues. The State pays the other 30% from the amount of local option tax revenues it retains. Burlington's number of returns for the local option sales tax only is 13,858, and the City currently pays \$92,294 in fees to the state. As a result of the change, Burlington's fees will be reduced by \$34,506, increasing the local option revenues the City gets to keep.

Failure to Pay Municipal Tickets (H.634/ Act 83)

Act 83 allows the use of civil contempt proceedings and referral of debt to a collection agency for unpaid municipal tickets. This extends the process for Judicial Bureau collection for fines violating state statute, which has been successful, to violations of municipal ordinances. In the past, municipal scofflaw cases were transferred to criminal court to go through criminal contempt proceedings, a labor intensive process that is incommensurate with many of the violations and resulted in most cases languishing unresolved. The only option was for courts to issue arrest warrants for such nuisance violations as biking or skateboarding on Church Street, open containers, excessive noise, disorderly conduct, zoning violations and the like. Penalties typically run from \$50 to \$500, with most falling between \$200 and \$250. Allowing referral to a debt collection agency will make it more likely that violators pay their fines and will put greater teeth in ordinances that are often disregarded. The new law does not just apply to future scofflaws. Existing unpaid tickets that have already been referred to criminal court may be transferred to the Judicial Bureau for referral to a collection agency.

Miscellaneous Changes to Municipal Government Law (S.106/Act 155)

This bill made a broad variety of changes to municipal statutes, some of which were long overdue. Among the more important ones are:

- **Embezzlement:** The state auditor will produce an auditing checklist and offer training for local government officials in hopes of improving internal financial controls and preventing embezzlement. Town treasurers will be required to complete the checklist annually and submit to the select board or city council, which will be required to review and acknowledge its receipt. They will also be required to report quarterly to the legislative body on the municipality's accounts and financial transactions.
- **Fines:** The maximum fine for most municipal ordinance violations is increased from \$500 to \$800. Maximum fines for open burning increase from \$25 to \$75. The maximum fine for zoning violations was increased from \$100 to \$200.
- **Legal Notices:** Legal notices of municipal ordinance or by-law changes now only need to be published once in a newspaper of record, the same as was adopted for State notices under the Challenges for Change law in 2010.
- **Tax Abatement:** Local officials now have the flexibility of abating taxes, interest OR penalties. Under current law, they may only have the option of abating them in proportion to each other.
- **Damage by Dogs:** Cities and towns are relieved of the responsibility for assessing damage to livestock, finding the dog and having it killed. With the increase in urban

chicken coops, this provision, adopted primarily to relieve rural selectboards of a problematic responsibility, could even benefit Burlington.

Department of Environmental Conservation Fees (H.769/Act 161)

State agency fees are set through Fee Bills on three-year cycles. 2012 was the year for Department of Environmental Conservation (DEC) fees. Municipalities pay a number of DEC permit application fees and fees for operating under those permits when they can recover costs from users. These include fees for:

- Air pollution permits,
- Wastewater Discharge permits,
- Public water supply and groundwater withdrawal permits,
- Public water system operator certifications,
- Wastewater treatment facilities,
- Stormwater run-off and discharge permits,
- Sewage treatment plant operator certifications, and
- Sludge or septage facilities.

For the new fees and increases to existing fees applicable to municipalities, see the League's summary in the attachments. For a discussion of the impact of one of the ANR fees on the McNeil generating station, see the energy section below.

Credit History for Employment Decisions (S.95 & H.42/Act 154)

This bill prohibits employers from inquiring about an employee's or a prospective employee's credit history information and from making employment decisions based on credit history. Exemptions include employees with fiduciary or payroll duties. Employers must get written consent if they seek credit information under one of the exemptions. The information must be kept confidential and destroyed after an employee leaves the organization or after a decision is made not to hire a prospective employee. S.95 started its life as a Senate bill that made a number of changes to the state's unemployment insurance laws. In a classic example of how legislation is sometimes made, the House stripped out virtually all of the Senate bill and substituted its "credit check" bill, H.42, which the Senate had previously declined to act on.

Public Records (H.611)

2011 legislation (Act 59/H.73) made some changes to the public records law and required the creation of a legislative study committee, made up of House and Senate members, to review the public records act and its exemptions. After studying the exemptions and weighing the public's interest, the committee is supposed to submit recommendations to the Legislature on whether the act and any of its exemptions "should be repealed, amended, or remain unchanged." The Committee met all summer and fall last year and issued interim reports and draft legislation (H.611) in January, but the recommendations on these exemptions were not acted on. The Committee is still active and is expected to continue to meet before the next session.

Vital Records (H.454)

The House passed H.454 in the last weeks of the 2011 session, but it was too late in the session for it to receive consideration in the Senate. This year it was taken up by Senate Government Operations and referred to Judiciary in April, too late in the session for consideration there, so that it died for this biennium. Expectations are that a new version of the bill will be reintroduced next year. H.454 designated the Department of Health to issue vital records (certificates of birth, death, marriage, etc.) and to establish a statewide system to

manage them. The Commissioner of Health would establish or designate offices to aid in the efficient administration of the system of vital statistics. A key component of the bill was the ability of municipalities to maintain records as they do now. Prior versions of the bill centralized record keeping with the State. At the discretion of towns, the vital records they maintained in municipal offices, would be preserved either by retaining the records in the town offices or by transferring the records to the Vermont State Archives and Records Administration. H.454 also established a fee schedule for making certified copies of vital records.

ECONOMIC DEVELOPMENT

Tax Incremental Financing (TIF)

Burlington and other municipalities, as well as the Tax Department and the Vermont Economic Progress Council (VEPC), testified on TIF for the first time in a number of years in the House Ways and Means Committee early in January. The Senate has taken frequent testimony and has generally taken up TIF changes in one form or another for the past few years, but not the House. Both the President Pro Tempore of the Senate and the Speaker of the House had committed the House and Senate to taking up the issue of TIFs “in a substantive way” in the 2012 session as a result of the House rejecting proposed changes to the law during the 2011 session. Former CEDO Director Larry Kupferman testified on the City’s behalf.

The testimony came as the Auditor’s Office was in the middle of completing two of four planned TIF audits called for in Act 45 of 2011, which required that his office audit all “active” TIF districts every four years. At the time of Burlington’s testimony, Newport’s TIF audit had been issued, and Milton’s was imminent. Burlington and Winooski are the other active TIFs subject to audit.

Ways and Means discussed the complicated nature of the TIF laws, the unique differences in how the laws treat different municipalities, and changes made over the years that apply to all TIF towns. The Committee heard subsequent testimony on separate occasions during the session from the Joint Fiscal Office, the State Department of Taxes, the Auditor’s Office, and the Attorney General, among others, on the subject of TIF and the audits. The Auditor promised that, in addition to the two final audits, his office would be releasing a “Capstone Report” on TIFs sometime in June of this year.

In the end, the Legislature did not recommend any changes in the TIF law this session but is expected to consider legislation next year in light of the audits, the proposals for improvements from municipalities, the desire of State agencies to clarify the laws on the books, and pending information and recommendations from the Auditor, municipalities and other State offices.

Burlington TIF Audit: The Auditor recently issued his report on the Burlington TIF, asserting that the City did not properly administer the TIF district according to the law and owes the State Education Fund \$1.2 million. Burlington officials dispute those findings, maintaining that they have administered the TIF correctly and have worked with the State for 13 years in doing so, in an open and public fashion. Here is a link to the Auditor’s report: <http://tinyurl.com/73g9ms9>, which includes the City’s response to the draft audit in Appendix IV. The report’s findings and the City’s response are summarized in a Vermont Digger article here: <http://tinyurl.com/7lhxlry>. Milton is also disputing the findings in its audit. The Legislature is expected weigh in on these findings.

Cloud Computing (H.436/Act 45)

So-called “pre-written” software was the subject of legislation originally introduced in H.757 and later incorporated into the Miscellaneous Tax Bill. The legislation institutes a temporary moratorium on the enforcement of the sales tax on pre-written software until July 1, 2013. The legislation refunds the taxes that were collected since December of 2006. The bill also calls for

a study of the sales and use tax, to look at the sustainability of that tax in the context of the changing economy and, specifically, at taxing remotely accessed software, tangible personal property purchased on the Internet, and services, among others. It creates a separate study committee to “examine strategies the state could implement to further enhance the dramatic growth of Vermont’s software development and information technology sector.”

Downtown and Village Center Tax Credit (H.436/Act 45)

Miscellaneous Tax also creates a one-year, refundable, 10-percent tax credit within the Downtown Tax Credit Program for expenditures related to damage from a federally declared disaster in Vermont in 2011. The bill caps the new credits available for disaster relief at \$500,000 and increases the overall limit for tax credits for fiscal year 2013 only to accommodate the new disaster-related credits.

HEALTH CARE (H.559/ACT 171)¹⁸

“The ‘exchange’ bill sets the stage for the state’s implementation of the federal Affordable Care Act. The exchange is a federal requirement that states create an online marketplace where people buy health insurance. The Shumlin administration plans to use the tool to draw down federal money that will help transition into a universal health care system.

“A major part of the big health care bill involved how to define the ‘small group’ market that would buy insurance from the online insurance marketplace. The original version of the bill would have required individuals and businesses with 100 or fewer employees to buy plans from the exchange. It also would have prohibited high deductible “bronze” plans.

“After a backlash from a large segment of the business community, lawmakers (backed by the Shumlin administration) shifted sails and changed the bill to allow the bronze plans and decreased the business size to 50.

“Small businesses and individuals will have to buy insurance from the exchange under the state law. Critics say mandatory participation in the exchange will dismantle the state’s current insurance market. The federal law does not require this, and other states are not taking this approach. The issue is being taken up by the U.S. Supreme Court, which is expected to rule on the individual mandate in June.¹⁹

“For Vermonters who are insured by larger businesses, the status quo will remain until 2016 when they will join the exchange insurance pool. In 2017, the state plans to start a universal health care system.

“For those who work for small businesses and are self-insured, things will change in 2014. Those Vermonters will have to buy insurance on the exchange, which has been likened to a travel website for health insurance. Low- and moderate-income individuals will be eligible for federal subsidies to cover their insurance costs. A family of four making up to \$92,200 would be eligible.”

The League’s detailed overview and analysis of the bill is included in its “2012 Legislative Wrap-Up” here: <http://tinyurl.com/dygecas>.

¹⁸ Summary of Health Care Act taken from “Legislative wrap up,” VT Digger, May 9, 2012, <http://tinyurl.com/7ovrl5b>.

¹⁹ The Supreme Court’s June 28 ruling mostly upheld the constitutionality of the Affordable Care Act. See “Today’s health-care decision: In Plain English,” SCOTUSBlog, June 28, 2012, <http://tinyurl.com/6v43e8s>.

PUBLIC SAFETY AND CORRECTIONS

Expungement of Criminal Records (S.37 & H.22/Act 131)

Act 131/S.37, an act relating to expungement and sealing of criminal history records, proves that where legislation is concerned, “it ain’t over till it’s over.” Both the Senate and House passed different versions of the bill last year, but it died when conference committee members were unable to bridge the substantial differences between their two bills before adjournment. This year conferees worked quietly, out of the public eye, to reach agreement and bring up a compromise bill for an up or down vote. Last year Burlington Police Chief Mike Schirling testified in both Senate and House Judiciary Committees. There was no further opportunity for testimony this year as conference committees do not typically take testimony.

The legislation creates a process for Vermonters who have been arrested or convicted of a nonviolent misdemeanor to petition the court to have their records expunged or sealed, under certain conditions:

- At least 10 years have elapsed since the person successfully completed the terms and conditions of his/her sentence conviction;
- The person has not been convicted of a crime arising out of a new incident since the person was convicted for the qualifying crime;
- Any restitution ordered by the court has been paid in full; and
- The court finds that expungement of the criminal history record serves the interest of justice.

Expungement applies not just to the criminal conviction record, but also to the criminal history record, essentially “all information documenting an individual’s contact with the criminal justice system,” which includes all police and prosecutorial investigative records. This caused deep concern for Chief Schirling and other law enforcement officials.

Their concern is that without access to these records, police investigative ability would be significantly hampered and public safety jeopardized. Criminal investigation is often based on historical information and clues that are culled from historic investigations. Expungement could eradicate records, currently held as private by law enforcement and not publicly accessible, that pertain directly to future investigations and to developing leads. These records are often critical in apprehending high level offenders as they help develop patterns and guide investigators. They may contain information that could be used to solve cold cases, exonerate someone or clear them of lingering suspicion. Information lost could also hamper victims’ ability to gain access to services. Without access to records pertinent to their defense, police departments could be hindered in defending themselves against worker’s compensation cases or other litigation stemming from incidents that occurred years ago.

As an alternate to expungement, Act 131 provides that the court may order a criminal history record to be sealed if that “better serves the interests of justice.” This option would preserve some access by police to their investigative records, but is itself not entirely free of problems. The act establishes detailed protocols for how the courts, prosecutors and police are to treat records that have been ordered expunged or sealed.

Act 131 also establishes conditions for expungement or sealing when more than twenty years have elapsed since a sentence has been completed and when someone is cited or arrested for a qualifying crime, as opposed to actually being convicted. The legislation provides that if a person is charged with a criminal offense after he or she has filed a petition for expungement, the court must wait for the new charge to be settled before taking action. If a petition is denied, no further petition shall be brought for at least five years. When a petition for expungement or

sealing is filed, the victim shall be notified and has the right to offer a statement before a decision is made.

This year's compromise legislation is an improvement over the problematic features of last year's competing versions, though problems remain. The original Senate bill did not include sealing of records as an option. While the House bill added sealing, it also expanded the scope of crimes covered. The final legislation restricts expungement and sealing to qualifying, non-violent misdemeanors and preserves sealing as an option. However, to take advantage of sealing to preserve some access to police and prosecutorial investigative records, law enforcement will have to remain vigilant when petitions for expungement are filed and take action to request sealing wherever that is deemed more appropriate.

Drug Gangs & Diversion of Prescription Opiates (S.226/Act 121)

To address the growing concern regarding gang involvement in the illegal drug trade, as well as other gang-related criminal activity in Vermont's communities, Act 121 creates a gang mobile enforcement team modeled after the Vermont Drug Task Force. The Appropriations Act provides \$150,000 to fund it. A gang activity task force also will be set up to raise public awareness about gang activity and organized crime and recommend how the public can help identify and report gang activity. Act 121 creates a new crime and penalties related to drug trafficking (use of firearm in conjunction with) and increases the penalty for an existing one (conspiracy to sell or distribute).

Bias-Free Policing (H.535/Act 134)

Passed by both the House and Senate, this act requires for the first time that all local law enforcement adopt bias-free policing policies and collect racial information from routine traffic stops. The policy shall encourage ongoing bias-free law enforcement training and contain the essential elements of the model policy to be adopted by the Law Enforcement Advisory Board, as well as those of the most current model policy issued by the Attorney General's Office. Act 134 also directs the Vermont Center for Justice Research to study how race affects criminal sentencing practices and the actual time offenders spend under the Corrections Department's supervision. The growing disproportionate representation of blacks and other minorities in prison has raised questions about racial bias among law enforcement officials and the court system. The Appropriations Act provides \$20,000 to fund the study. Burlington has been a leader in adopting bias-free policing and collecting racial data from traffic stops. We should not be adversely affected by the new requirements.

Opioid Addiction Treatment System (H.627/Act 135)²⁰

This act authorizes the Health Department to establish a regional system of opioid addiction treatment. It directs the department to establish the system by rule and requires the following:

- Patients shall receive appropriate, comprehensive assessment and therapy;
- Medical assessments are to be conducted to determine whether short-term or long-term pharmacological treatment is medically appropriate for a patient (i.e., methadone, buprenorphine/suboxone, etc.);
- Controlled substances shall be dispensed only by authorized treatment programs and by health care professionals meeting certain federal requirements;
- Comprehensive education and training requirements will apply to health care providers, pharmacists, and licensed clinical professionals; and

²⁰ Adapted from legislative summary, <http://tinyurl.com/7s5f58g>.

- Patients must follow rules of conduct, including urinalysis and restricted medication dispensing designed to prevent diversion or relapse.

The act requires the commissioner of health to report about the system to the committees of jurisdiction for four years following enactment, including its effectiveness. The act also repeals a provision allowing the Health Commissioner to approve up to five opiate addiction treatment programs operated by, and located outside of, a hospital or medical school, as long as the program is located in a multi-use building and is not geographically isolated.

Community Justice Related Bills²¹

Burlington's Community Justice Center is an active member of the statewide CJC network and helps to fund its legislative work. The statewide network followed these bills, which had the potential to affect CJC services:

- Referral to Court Diversion for Driving with a Suspended License (S.244/Act 147): This act refers cases of driving with a suspended license to court diversion, rather than the Judicial Bureau, provided that the reason for the license suspension was for failure to pay fees or fines, or for accrual of points for motor vehicle violations, excluding DUI or other serious offenses.
- Collection of Child Support (S.203/Act 119): This act establishes that child support cases can be referred to a CJC to work with a parent who owes child support.
- Juvenile Delinquency Proceedings (H.751/Act 159): This act extended the jurisdiction of the family division of the superior court to a person who is adjudicated delinquent up until six months after her/his 18th birthday, provided that the offense was a nonviolent misdemeanor and the child was 17 years old when it was committed. Under current law, the family division's jurisdiction ends when the child turns 18. The act also allows a state's attorney to file a motion to transfer misdemeanor and certain non-violent felony delinquency proceedings from juvenile court to the criminal division of the superior court if the child is 16 or 17 years of age. Under current law, this is permitted only for children who have committed serious felonies. The court will now be able to refer juveniles to CJC's rather than placing them on probation.

Record Keeping for Search Warrants (S.138) & Prescription Drug Monitoring (H.745)

The purpose of S.138 was to calculate criminal sentences and establish a record keeping system for search warrants. It also would have added duties onto the Nonviolent Misdemeanor Sentence Review Committee, including a study to determine whether records produced by public agencies in the course of the detection and investigation of a crime should be open to public inspection or confidential. This bill died in the House on the last day. There were attempts to attach to it H.745, prescription drug monitoring, which proposed to require health care providers to search the Vermont Prescription Monitoring System (VPMS) before prescribing a controlled substance and to expand access to the VPMS to law enforcement. The House and Senate had substantial differences over that bill, most notably whether or not a search warrant would be required to gain access, so both bills failed. Both are likely to come back in some form next session.

TRANSPORTATION (H.770/Act 153)

State Funding for Highways and Bridges

The FY13 Transportation Bill (T-Bill) includes \$639 million in spending, about \$100 million more than the previous year. Almost all of the increase is due to the State's investment in Irene

²¹ Summary prepared in collaboration with Burlington CJC Director Karen Vastine and Virginia Renfrew of Zatz & Renfrew, legislative liaisons for the statewide CJC network.

related repairs to roads and bridges, including over \$66 million in FEMA and federal highway funds. A total of \$131.91 went to assist local highway, road and bridge construction, a \$74.45 million increase from FY 12.

Town Highway Aid was funded at just under \$26 million, one million above last year. Normally, Burlington receives about \$260,000 from this fund annually for its street repaving program. Funds are allocated based on the total mileage of a city or town's local streets and roads. Class 2 Paving was level funded at \$7.25 million. Burlington receives assistance from this source on a per-project basis when we repave streets that serve as state highways, like Willard, Shelburne and Main Streets, Riverside Avenue and the Beltline.

In addition to the Champlain Parkway, this year's T-Bill includes funding for these Burlington projects:

- Repaving Main Street from Willard Street extending 3.12 miles eastward to South Burlington;
- Federal pass-through funding for improvements to the Church Street Marketplace, intersecting streets, and the Waterfront;
- Preliminary Engineering (PE) and Right of Way (ROW) funding for the Shelburne Road round-about;
- Sidewalk construction on Flynn and Colchester Avenues and Cliff Street;
- Improved pedestrian signalization at several intersections along North Avenue; and
- The state's share of maintaining quiet zone railroad crossings.

See VLCT's FY 13 Appropriations Act summary chart in the attachments for a detailed breakdown of the various line items in the Transportation Budget.

Champlain Parkway

The T-Bill provides \$2.27M for the Champlain Parkway, including \$120,000 for continued Preliminary Engineering, \$150,000 in Right of Way funding, and \$2 million for construction. These amounts are expected to suffice for the project to move forward during the current fiscal year. Prior to appeal of the project's April Act 250 approval (except for stormwater permits), construction was anticipated to begin in the spring of 2013. The recent appeals will delay project start-up, possibly postponing the need for construction funding until FY 14 at the earliest.

Transportation Enhancement Grants / Pedestrian & Bike Facilities

The FY 13 budget allocated just over \$8.8 million for Pedestrian and Bike Facilities, a \$200,000 reduction, and \$4 million for Transportation Enhancement Grants, a \$1 million increase. Burlington projects benefited from \$180,000 in Bike-Ped funding and again include sidewalk improvements to Flynn and Colchester Avenues and Cliff Street, and pedestrian signal improvements at various locations along North Avenue.

There are twelve eligible activities for Enhancement Grants, including pedestrian and bicycle infrastructure and safety programs, scenic and historic highway programs, landscaping and scenic beautification, historic preservation, and environmental mitigation. For FY 13, Burlington was scheduled to receive about \$60,000 in grants for Main Street and Bike Path improvements. Municipal environmental mitigation projects are to receive preference for fiscal years 2013-2015.

Rail Funding

The T-Bill includes \$6.6 million in railroad funding for improvements to the Vermont Railway tracks between Rutland and Burlington and \$75,000 for the quiet zone maintenance at railroad crossings between Burlington and Shelburne.

ENERGY²²

Renewable Energy and Smart Meters (S.214/Act 170)

The big renewable energy bill passed by the House (H.468) died in the Senate. During the last week of the session, several of its major provisions as well as added Senate provisions were passed as part of S.214/Act 170, originally the smart metering bill. Act 170 makes the following changes, among others:

- The act expands the “standard offer” program²³ that is designed to provide incentives for small renewable energy projects by increasing the current program ceiling of 50 megawatts (MW) to 127.5 MW in annual increments over the next 10 years. It exempts three types of plants from the ceiling: farm methane plants, new standard offer plants that have substantial benefits to the operation and management of the electric grid, and existing in-state hydroelectric plants that are 5 MW or less. The PSB is required to make a standard offer contract of 10 or 20 years available to these plants, and in the case of existing hydro, at a price of no more than \$.08 per kilowatt hour adjusted for inflation.
- It revises the goals of the Sustainably Priced Energy Enterprise Development (SPEED) program, clarifying the existing goal that 20 percent of total retail sales statewide in 2017 be from new renewable energy, and adding a total renewables target for each electric utility of 55 percent starting in 2017 and rising to 75 percent by 2032.
- The Public Service Department is directed to further study a potential renewable portfolio standard for the state and other potential mechanisms and incentives for renewable energy development.
- The act amends the criteria the Public Service Board uses to approve new gas and electric purchases by utilities.
- Act 170 allows Vermont utility customers to opt out of using advanced electric meters that use intermittent radio frequency signals to transmit data to utilities. It prohibits Vermont utilities from charging extra fees to customers who choose not to have a wireless smart meter. The Health Department and an independent expert are to study their health effects.
- This act exempts solar energy devices installed on flat roofs or rooftop solar collectors less than 10 feet high on sloped roofs from regulation under municipal land use bylaws.
- The act did not include a renewable portfolio standard, which for the first time would have additionally required Vermont utilities to purchase and account for set amounts of renewable energy above and beyond their standard offer requirements.

Fee Bill (H.769/Act 161)

As reported earlier, this bill increases a variety of fees charged by the Department of Environmental Conservation, including an annual registration fee on plants emitting more than 10 tons of certain air contaminants. The original bill would have increased the fee paid by the

²² Energy update prepared in conjunction with Tom Buckley of BED.

²³ The 2009 energy bill established as part of the SPEED (Sustainably Priced Energy Enterprise Development) program so-called “standard offers” or “feed-in tariffs” that reward small renewable electric energy projects with generous prices for their electric product in order to spur their development further. Tariffs vary depending on the energy source. The program was capped at 50 megawatts total.

McNeil generating plant by \$16,000 - \$20,000. BED sought a \$56,000 cap on the fee charged for renewable energy plants, which would have set the fee at the level paid in 2011 and saved McNeil \$16,000 - \$20,000 annually. In the end they were able to get a \$64,000 cap, saving McNeil \$8,000 - \$10,000 annually.

Net Metering (H.475/ Act 125)

Act 125 is the latest in what has become an annual effort to increase and enhance the “net metering”²⁴ benefits for customers who install small renewable energy projects, such as wind or solar. The act primarily consists of technical modifications to the existing statute that authorizes customers who self-generate electricity using renewable energy to “net meter” or use that generation to offset the electricity supplied to them by their electric company. The act simplifies the application process for solar net metering systems up to 10 kilowatts. It requires an electric company to base the calculation of additional credits for solar net metering systems in excess of the customers’ usage on the company’s general residential rate schedule. The Act also calls for an extensive study of the track record of net metering to date.

Taxation of Solar Power (H.679/ Act 127)

H.679 exempts large solar energy projects with generating capacity greater than 10 MW from the statewide education property tax. It sets a “property tax” rate for education of \$4 per kilowatt to provide for uniform taxation. To encourage small residential solar installations, projects with less than 10 kilowatts capacity are exempt from municipal property tax. The bill also changed the threshold for wind generating plants to be taxed under an alternative to the education property tax of three cents per kilowatt hour produced over a six-month period. The threshold was dropped from five MW to one MW; wind generators of less than one MW are still subject to the education property tax.

Electric Generating Tax (H.782/Act 143)

The Miscellaneous Tax Bill repeals the existing electric generating plant education property tax rate structure and increases the rate of the electric generating plant tax to \$0.0025 per kilowatt hour of electric energy produced. The rate increase is effective for electricity generated after July 1, 2012. The taxes had been imposed on generation since 2005 (prior to that, they were imposed on net book value), but beginning July 1, 2012 the tax will be imposed on energy produced in the preceding quarter rather than based on average production for sale in the three preceding years.

BED’s Tom Buckley followed energy-related legislation closely, providing expert testimony on BED’s behalf in several committees.

AFFORDABLE HOUSING

Housing did very well in the budget for the second year in a row, thanks in large part to both the Governor’s and Legislature’s strong support for housing and homelessness. As a result, several key programs saw increases while all other programs were at least level funded. A major, multi-faceted housing bill passed, while other measures will have to wait until the next biennium for action. Here is a brief summary of housing appropriations and legislation:

²⁴ “Net metering” is an electricity policy under which the owner of small renewable energy facilities, such as wind or solar, receives retail credit for at least a portion of the electricity they generate. The amount of energy produced is deducted from the energy consumed. In this context, “net” means “what remains after deductions.”

Vermont Housing & Conservation Board (H.781/Act 162)

VHCB is Vermont's premier funding source for assisting affordable housing with state taxpayer dollars and has helped fund virtually every single affordable housing unit developed over the last twenty-five years, including Northgate Apartments, the recently opened Thayer Commons on North Avenue and hundreds of other units in Burlington. It also helps preserve the health of the state's rural and tourism economies by funding farmland preservation and the conservation of sensitive natural areas and recreational lands. Conservation funding, too, has been very important for Burlington over the years, helping to pay for the Waterfront Park, Delta Park and other significant conserved lands.

By law, VHCB is supposed to receive just under 50% of the state's property transfer tax revenues. During the last decade, successive administrations and Legislatures diverted funding from VHCB for other purposes. This year Governor Shumlin recommended, and the Legislature approved, full statutory funding at \$14 million for the second year in a row. This is a \$1.2 million increase from the previous year's funding of \$12.8 million. With strong support for both VHCB's housing and conservation missions from the Governor and in both chambers of the Legislature, this was also the second year in many that no serious threats to conservation funding emerged.

Homeless Shelters and Homelessness Prevention (H.781/Act 162)

The State has two primary funding sources for homeless shelters and homelessness prevention: the Emergency Shelter Grant Program (ESGP) and the General Assistance Program (GA). ESGP funds are administered by the Vermont Office of Economic Opportunity and pay for basic shelter operating costs like rent, utilities and staff salaries. They also fund supportive and prevention services, emergency assistance and transitional housing. Several Burlington programs serving the homeless and victims of domestic violence receive funding from this source, including the Committee on Temporary Shelter (COTS), CVOEO, Spectrum, and Women Helping Battered Women. ESGP was level funded at the base funding amount of \$792,000.

GA funds a variety of housing and housing related support services for low-income families, including the Back Rent Program, Permanent Housing, Temporary Housing (motel vouchers), security deposits, utility payments and the like. These programs are essential tools in providing emergency housing assistance and preventing homelessness. Because of the economic downturn of the last several years and the resulting rise in housing instability and homelessness, GA has seen a huge increase in demand. Governor Shumlin's FY 13 GA budget was level funded at \$6.65 million and again included \$1.7 million to replace HUD Homeless Prevention and Rapid Rehousing (HPRP) funds that were lost when federal stimulus funding ended. It also included about \$480,000 to start a State rental assistance program. This implemented one of the chief recommendations from the Governor's 2011 Summit on Homelessness. The FY 12 supplemental budget also included an extra \$1.575 million for emergency housing (\$400,000), the new rent subsidy program (\$250,000), and several Irene related expenses.

Other Housing Related Funding (H.781/Act 162)

The Shumlin administration requested, and the Legislature approved, level-funding or small increases for numerous other housing and housing related programs, including:

- Housing and Supportive Services (HASS), which provides essential services to elders and individuals with disabilities living in subsidized housing to improve residents' ability to age in place and enhance their quality of life. The HASS program is transitioning into Cathedral Square's innovative new Support and Services at Home (SASH) program.
- Home Access Program (HAP), which is administered by the Vermont Center for Independent Living and helps people with disabilities make accessibility modifications to

their homes, allowing them to live independently and avoid expensive nursing home care.

- Assisted Community Care Services (ACCS), which helps elders and people with psychiatric and physical disabilities live in more independent settings in assisted living and residential care homes.
- HomeShare Vermont, which arranges and assists home sharing matches for vulnerable populations.
- CVOEO's Mobile Home Project, which provides technical assistance and support for mobile home park residents statewide and received a modest \$10,000 increase. This past year, CVOEO worked especially hard to assist mobile home park residents hard hit by Irene.
- The Recovery Housing and the Mental Health Housing Contingency Funds, which cover apartment set-up costs and provide rental subsidies for people with severe and persistent mental illnesses. As part of the restructuring of the state's mental health system, \$500,000 was budgeted to create a new Section 8 style rental assistance program for people with mental illness.

As mentioned earlier, the Corrections Department continued to increase investments designed to move non-violent offenders out of prison by increasing Transitional Housing and support services for ex-offenders by \$842,000, bringing total funding up to \$5.1 million for FY 13. The state has sought steady annual increases over the last several years to help reduce costly recidivism.

Housing/Mobile Home Bill (S.99/Act 137; H.781/Act 162; H.782/ Act 143)

Initially developed to help mobile home owners devastated by Irene, Act 137 enacts a broad variety of measures related to mobile homes and housing in general. It must be read in conjunction with the Appropriations Act and Miscellaneous Tax Bill, which provide the funding and tax credit increase to implement key parts of Act 137. Here are the bill's major features:

- A Fair Housing provision prohibiting discrimination against affordable housing in land use decisions. This measure originally passed the House as a separate bill, H.59, and adds "income" as a protected class for purposes of land use decisions and permitting of housing developments.
- A 30-day increase to the time mobile home residents have to negotiate with a mobile home park owner when the park has been noticed for sale. The increase is from 90 to 120 days and is intended to increase the possibility of residents purchasing their parks as resident owned cooperatives.
- A directive to the Department of Housing, Economic and Community Development (DEHCD) to collaborate with other organizations and stakeholders in developing a plan for the viability and disaster resiliency of mobile home ownership and mobile home parks. The Appropriations Act budgets \$50,000 for this purpose and another \$50,000 each for (1) the Mobile Home Project to increase its capacity to assist residents in forming co-ops, and (2) VHCB to fund infrastructure and financial feasibility analysis for mobile home park purchases by resident co-ops.
- A statement of the Legislature's intent to increase the amount of Vermont Affordable Housing Tax Credit. The Miscellaneous Tax Bill lifts the cap for state tax credits awarded for owner-occupied units by \$200,000 a year, lifting the total cap of allowed credits by \$1,000,000. This will generate approximately \$900,000 in additional tax credit equity every year. The Legislature's intent is to use the increased credit, at least initially, to fund a financing plan administered by Champlain Housing Trust (CHT) to help replace

mobile homes destroyed by Irene, and for housing that is energy efficient. In future years, it can be used to promote other forms of affordable homeownership.

- A statement of legislative intent to fund a variety of priorities for investments in securing mobile home infrastructure, expanding affordable ownership opportunities, and other activities. The Appropriations Act includes \$300,000 to help fund the CHT mobile home financing plan.

Act 137 includes additional measures that allow municipalities to initiate the sale of abandoned mobile homes, require the Department of Public Safety to clarify and update information concerning the applicability of housing codes, create a sales tax exemption for mobile homes purchased to replace homes lost to Irene, clarify the ability of a mobile home park owner to evict for criminal activity, and allow landlords to dispose of a tenant's property 15 days after service of a writ of possession by the sheriff.

Low Income Housing Exemption (H.782/ Act 143)

The Miscellaneous Tax Bill also expands the types of low income housing transactions exempted from the property transfer tax by exempting the first sale of property by non-profit organizations whose primary purpose is to provide housing to low-income individuals. This will lower the transaction cost for homes sold by Habitat for Humanity and other non-profits. Transfers of leasehold interests are already exempt, which lowers costs for homeowners that lease the land under their homes from a community land trust.

Affordable Housing Preservation Bill (H.216)

H.216 would have given longer notice to tenants in federally subsidized properties whose owner decided to discontinue their use as affordable housing. It would also have given a first option to purchase to an entity willing to buy the property and maintain it as affordable housing. In the wake of the potential loss of Wharf Lane and Bobbin Mill apartments, the City Council was persuaded to place an advisory question on the 2011 Town Meeting ballot, asking voters whether the Legislature should be urged to adopt such a law. City voters passed the question by 70%. Though considerable testimony was heard in the House, opposition by the Shumlin administration, Vermont Housing Finance Agency and private owners killed the bill.

Private Road Maintenance (H.272/Act 123)

Act 123 requires property owners whose property is located on a private road to share the costs of road maintenance and repair when they have no agreement or covenant. The bill was passed in order to ensure that Fannie Mae and Freddie Mac would purchase mortgages of properties on private roads. Fannie and Freddie do not allow the re-sale of mortgages without a maintenance agreement or covenant. In the absence of such an agreement, Fannie and Freddie will still purchase mortgages of properties on private roads in states that have adopted laws defining the responsibilities of owners for the maintenance and repair of their private roads.

ENVIRONMENTAL PROTECTION AND PERMITTING

Universal recycling (H.485/Act 148)

Act 148 substantially revises Vermont's solid waste laws. Its objectives are to reduce the volume of waste sent to landfills and divert the maximum amount of materials to recycling, reuse, or composting. Because the state is running out of landfill space, the act sets deadlines for when materials will be banned from trash and must be recycled. Metal cans, glass, plastic, paper and cardboard must be recycled beginning in July 2014, leaves and yard waste as of July 2015, and food waste in July of 2017.

The act requires the Agency of Natural Resources (ANR) to assess the current capacity, cost, and efficiency of solid waste collection in Vermont and to report to the General Assembly. It requires solid waste certified facilities and transporters that offer to collect municipal solid waste also to offer to collect mandated recyclables and leaf and yard waste separately from other solid waste, at no additional charge. In addition, the act requires a person producing more than 104 tons of source-separated organic material to separate the waste from other waste and arrange for its disposal in a compost facility. Act 148 also amends the requirements for the State solid waste management plan and requires the State to adopt a revised plan by November 1, 2013. Additionally, the act authorizes municipalities to impose charges for the collection of municipal solid waste that increase as the volume or weight of the waste collected increases.

For a more detailed review of Act 138's new requirements, see the League's summary.²⁵

Public Participation in Environmental Enforcement Proceedings (H.258/Act 73)

Act 73 affords Vermonters affected by environmental violations a greater opportunity to weigh in when decisions are being made about penalties for the violations. This brings State statute into conformance with Environmental Protection Agency (EPA) requirements for federal regulations whose enforcement EPA has delegated to ANR (Clean Water Act, Clean Air Act, Resources and Conservation Recovery Act). The act standardizes public participation not only for federal law, but for ANR and Natural Resources Board (NRB) enforcement actions. Act 73 requires ANR and the NRB to post a draft enforcement action for public comment for 30 days. If no comments are received, the enforcement action may be filed with the environmental court. If comments are received, ANR or the NRB may withdraw the enforcement action or send it, together with all comments, to the environmental court for action, in which case ANR or the NRB must post the action to its website for 14 days. During the 14 days, a person may file a motion for "permissive intervention." To intervene, a person must be an "aggrieved person" who commented during the 30-day comment period. An aggrieved person is "a person who alleges an injury to a particularized interest protected by a statute" enforced by ANR or NRB and can include an organization or association. If the court grants intervention, the aggrieved party must establish clearly why they think the ANR or NRB enforcement action is insufficient.

Flood Hazard Areas & Water Quality (S.202 & H.779/Act 138)

Act 138, an act relating to the regulation of flood hazard areas, river corridors and stream alteration, and to the water quality of state surface waters, is meant to:

- "(1) facilitate the coordination of federal, state, and local management activities for flood hazard areas;
- "(2) encourage local government units to manage flood hazard areas and other flood-prone lands and provide state assistance to those local efforts; and
- "(3) comply with National Flood Insurance Program (NFIP) requirements for regulating development, including development exempt from municipal zoning, to ensure eligibility for flood insurance under the NFIP."²⁶

It directs ANR to establish emergency rules that set parameters for work done on rivers and streams in emergencies. The legislation comes on the heels of Tropical Storm Irene, last year's spring floods, and concerns that some people went too far in clearing debris out of riverbeds. The bill provides for ANR to create model flood hazard area by-laws for potential adoption by municipalities that, unlike Burlington, do not already have their own. Though Burlington was not affected by Irene, Act 138 will certainly have an impact on the City's substantial flood hazard areas (the Intervale, lakeside waterfront areas, and Mouth of the River) and river corridors (Englesby and Centennial Brooks, not to mention the Winooski River). The following description

²⁵ "2012 Legislative Wrap-Up," Vermont League of Cities and Towns, p.35, <http://tinyurl.com/dygecas>,

²⁶ "2012 Legislative Wrap-Up," p.32, <http://tinyurl.com/dygecas>,

is adapted from the Legislative Council's legislative summary.²⁷ Interested readers are urged to read the League's very detailed treatment of this complex, 72-page bill that combines Senate Bill 202 and House Bill 779.

The act authorizes ANR to adopt rules to regulate uses exempt from municipal land use regulation in flood hazard areas. These are agricultural uses, silvicultural activities and transmission lines. Adoption of the rules is intended to bring the state and participating municipalities into compliance with FEMA's National Flood Insurance Program (NFIP). Beginning July 1, 2014, uses that are exempt from municipal land use regulations need an ANR permit if the use occurs in a flood hazard area of a town that participates in the NFIP. For Burlington this would mean, for example, that any agricultural structure built in the Intervale would require an ANR permit. The act makes conforming amendments to municipal zoning authority to aid in state compliance with the NFIP program. Prior to ANR adoption of flood hazard area rules for uses exempt from municipal land use regulation, the act provides that certain new facilities or activities shall be allowed in a flood hazard area only if they conform with FEMA's NFIP development requirements.

Act 138 clarifies ANR's authority over stream alteration. The act defines instream material for purposes of stream alteration. The act requires an ANR permit for construction of a berm in a river corridor or flood hazard area, unless the berm is an emergency measure. ANR is authorized to adopt rules to implement stream alteration requirements and rules regarding stormwater management and stream alteration during emergencies.

The act requires ANR to assess the geomorphic condition and sensitivity of rivers and identify those that pose a probable risk of harm to life, property, or infrastructure. Upon completion of a river sensitivity assessment, ANR shall provide a map of the river to the municipalities and regional planning commission in which the river is located. The map shall identify floodplains, river corridor areas, and FEMA zones, and shall recommend best management practices. ANR's maps and recommendations are for municipal reference and have no regulatory effect.

The act requires ANR to report to the General Assembly with recommendations on how to remediate and fund remediation of the water quality of state surface waters. The act transfers rulemaking authority for water quality, wetlands, use of surface waters, classification of waters, surface levels, and lakes management from the water resources panel to ANR. ANR is directed to conduct a public participation process with stakeholders prior to rulemaking. Due to the pending reissuance of the Lake Champlain Total Maximum Daily Load plan (TMDL), the act amends requirements that ANR revise and report on implementation of the TMDL.

Stormwater Regulation (H.752/Act 91)

Act 91 amends the stormwater statutes so as to recodify a "net zero standard" for stormwater impaired watersheds, of which Burlington has two: Centennial and Englesby Brooks (Potash Brook also passes through Burlington for a brief stretch). In the case of a redevelopment project, an application for a new permit for a property with an expired discharge permit, or from any combination of development, redevelopment, and expansion, net zero standard means the sediment load from the discharge approximates the natural runoff from an undeveloped field. In the case of a new discharge, net zero standard means that the discharge does not increase the sediment load in the receiving stormwater-impaired water. In either case, the discharge must meet the requirements of the 2002 stormwater management manual. The act also re-asserts a statutory provision that provides that no encumbrance on record title to real property or effect on marketability of title is created by the failure of a property owner to obtain a discharge permit to a stormwater-impaired water prior to 2004.

²⁷ See Act 138 legislative summary at <http://tinyurl.com/82bjy9c>.

Permit Reform (S.28)

S.28 would have established a pilot program for on the record review for appeals from the District Environmental Commission in Chittenden, Rutland and Washington Counties. It sought to speed up appeals to Environmental Court by creating an environmental division staff attorney, whose duties would have been to research legal issues; draft legal memoranda; screen and manage division caseload with special attention to complex cases and division backlogs; and supervise law clerks and interns. It also would have established ethical standards for district environmental commissions and clarified party status in Act 250 proceedings. The bill passed the Senate but stalled in the House because of the House Natural Resources Committee's opposition to on the record review. Permit reform is expected to be considered again next year.

Accessory Apartments (S.114)

This bill would have changed the default statutory threshold requirement for an accessory apartment from no more than 30 percent of the total livable area of a single-family dwelling to 600 square feet or 30 percent, whichever is larger. The bill passed the Senate, but stalled in the House. Proponents of the bill felt that the current 30 percent standard did not provide a sufficient sized accessory unit when the primary dwelling was only 1,500 to 2,000 square feet. The median size single-family home in Burlington is 1,543 square feet, which would allow for a 463 square foot one-bedroom or efficiency apartment.

OTHER MUNICIPAL ISSUES

The Vermont League of Cities and Town's 2012 Legislative Wrap-Up covered numerous additional issues that were the subject of legislative action this past session. Readers should consult VLCT's report for write-ups of the following bills of general municipal interest:

- Highway Condemnation Law Changes (H.523/Act 126)
- Mental Health Needs of the Corrections Population (H.765/Act 87)
- Ignition Interlock & Restricted Driver's Licenses (H.768/Act 90)
- Pollution Abatement and Potable Water Supply Permits (H.577/Act 117)

ATTACHMENTS

VLCT FY 13 Appropriations Act Summary Chart

(From “2012 VLCT Legislative Wrap-Up”)

Municipal Funding Priorities in FY 2013 Budget (in Millions), May 4, 2012 Approved					
Budget Line Item	FY12 Budget As It Became Law	FY13 Governor's Recommend	FY13 Approved	FY 13 Approved \$ Change from FY12 Final	FY 13 Approved \$ Change from Governor's Recommend
PILOT – ANR Lands	\$2.13	\$2.13	2.13	0.00	0.00
PILOT – Corrections Facilities ¹	\$0.04	\$0.04	0.04	0.00	0.00
PILOT – Montpelier ¹	\$0.18	\$0.18	0.18	0.00	0.00
PILOT – State Buildings ¹	\$5.80	\$5.80	5.80	0.00	0.00
Current Use – Municipal	\$12.40	\$12.64	12.64	0.24	0.00
Homeowner Rebate – Municipal	\$15.19	\$14.55	14.55	(0.64)	0.00
Renter Rebate – Municipal	\$2.50	\$2.89	2.89	0.39	0.00
Special Investigative Units	\$1.25	\$1.25	1.25	(0.00)	0.00
General Fund Transfer to Education Fund ²	\$276.24	\$282.32	282.32	6.08	0.00
Federal Stimulus Funds Passed Directly to School Districts	\$9.50	\$0.00	0.00	(9.50)	0.00
General Fund Support of Teachers' Retirement System	\$51.67	\$63.61	63.61	11.94	0.00
Town Bridge Grants ³	\$16.78	\$19.30	19.30	2.52	0.00
Town Highway Aid Program	\$24.98	\$26.48	25.98	1.00	(0.50)
Town Highway Aid Program – Class 1 Supplemental	\$0.13	\$0.13	0.13	0.00	0.00
Town Highway Structures	\$5.83	\$5.83	6.33	0.50	0.50
Vt. Local Roads	\$0.39	\$0.38	0.40	0.01	0.03
Town Highway Public Assistance Grants ⁴	\$0.20	\$66.50	66.50	66.30	0.00
Municipal Mitigation Grant Program	\$1.14	\$1.26	1.26	0.12	0.00
Class 2 Highway Paving and Rehabilitation	\$7.25	\$7.25	7.25	0.00	0.00
Town Highway Emergency ⁵	\$0.75	\$4.75	4.75	4.00	0.00
Total Local Highway Aid	\$57.45	\$131.88	\$131.91	74.45	0.03
TOTAL	\$434.36	\$517.29	\$517.31	82.95	0.02

1. Figures for all years are all from local options tax sharing and no state monies.

2. Required by statute to increase by New England economic project cumulative price index for government purchases (16 V.S.A. § 4025(a)(2)). In 2010 and 2011, legislature reduced this with “Notwithstanding” language. The 2011 legislature recalibrated the amount of aid to be adjusted annually that will cost an additional \$27.5 million in property taxes having to be raised in FY13 and each succeeding year.

3. Includes state and federal aid only, no local match.

4. Contains \$63 million in federal funds, most likely all FEMA and Federal Highway Administration (FHWA) reimbursements for Irene and other 2011 flood damage.

5. Contained in two line items: state aid for federal disasters (\$3.6 million) and non-federal disasters (\$1.15 million). Contains \$3.2 million in federal funds, most likely more FEMA and FHWA funds for 2011 floods.

VLCT FY 12-13 Capital Bill Budget Adjustment Summary Chart

(From “2012 VLCT Legislative Wrap-Up”)

Capital Bill Two-Year (FY 2012-2013) Recommended Budget Adjustment: Line Items Important to Municipalities

Agency/Department	Line Item	As Enacted 2011 Session			As Enacted 2012 Session		
		As passed FY12	As passed FY13	Total Final Passage	Adjusted FY12	Adjusted FY13	Adjusted Total
Dept. of Information and Innovation	Vt. Telecomm. Authority, Broadband Development	10,000,000	0	10,000,000	10,100,000	0	10,000,000
Dept. of Taxes	Orthophotographic Mapping	100,000	100,000	200,000	100,000	100,000	200,000
Agency of Commerce and Community Development	Historic Preservation Grants (1:1 match)	225,000	225,000	450,000	225,000	225,000	450,000
	Human Services and Educational Facilities Grants	225,000	225,000	450,000	225,000	225,000	450,000
	Recreational Facilities Grants	225,000	225,000	450,000	225,000	225,000	450,000
	Historic Barns, Ag. Grants (1:1 match)	225,000	225,000	450,000	225,000	225,000	450,000
	Cultural Facilities Grants (1:1 match)	225,000	225,000	450,000	225,000	225,000	450,000
	Agricultural Fair Capital Projects	225,000	225,000	450,000	225,000	225,000	450,000
	Regional Economic Development Grant Program ¹	0	0	0	0	225,000	225,000
Agency of Natural Resources	Clean Water State/EPA Revolving Loan Fund Match	1,000,000	2,000,400	3,000,400	1,000,000	1,500,400	2,500,400
	Pownal wastewater treatment facility	500,000	500,000	1,000,000	500,000	500,000	1,000,000
	Combined Sewer Overflow (ARRA FY11)	210,000	375,000	585,000	210,000	375,000	585,000
	Water Supply Revolving Loan Fund	3,061,713	2,733,140	5,794,393	2,033,140	3,061,713	5,094,853
	Vt. Drinking Water Revolving Fund ¹	0	0	0	0	200,000	200,000
Agencies of Agriculture, Natural Resources	Ecosystem Restoration and Protection Grants	2,500,000	2,500,000	5,000,000	2,500,000	2,500,000	5,000,000
	Waterbury WWTF Phosphorus Removal	2,700,000	0	2,700,000	2,000,000	0	2,000,000
	Dam Safety and Hydrology	325,000	0	325,000	325,000	0	325,000
Dept. of Forests, Parks and Recreation	Vermont Youth Conservation Corps	0	0	0	0	200,000	200,000
Agency of Agriculture	Best Mgmt Practices on Vt. farms and water quality buffer program	1,300,000	1,200,000	2,500,000	1,050,000	1,200,000	2,250,000
Rural Fire Protection	Dry Hydrant Program	100,000	100,000	200,000	100,000	100,000	200,000
Housing and Conservation Board	Building and Conservation Projects	4,000,000	0	4,000,000	4,000,000	0	4,000,000
Dept of Education	State Aid for school construction	7,425,000	7,425,000	14,850,000	7,425,000	7,425,000	14,850,000

1. New program.

VLCT Summary of Municipal Fees in ANR Fee Bill (H.769, Act 161)

(From "2012 VLCT Legislative Wrap-Up")

The listing that follows shows significant fee increases for municipalities. The existing fee amount (if there is one) is crossed out.

3 V.S.A. § 2822 (j)

(2) wastewater discharge permits administrative processing fee: \$ 120.00 (~~\$100.00~~)

(iii) Stormwater discharges

(I) individual or general permit to discharge to Class B Waters: \$430 (~~\$60~~) /impervious acre, \$220 (~~180~~) minimum.

(II) individual or general permit to discharge to Class A Waters: \$1400 (~~1170~~)/impervious acre, \$1400 (~~1170~~) minimum.

(V) individual or general permit for municipal separate storm sewer system (MS4) stormwater runoff, original or amendment application: \$1200 (~~1000~~).

(VI) individual or general operating permit application or amendment for residually designated stormwater discharge

(aa) discharge to Class B water \$430/acre of impervious area, minimum \$220.

(bb) discharge to Class A water \$1400/acre of impervious surface, minimum \$1400.

(iv) Stormwater

(II) individual or general permit for collected stormwater runoff discharged to Class B waters \$80 (~~66~~) per impervious acre.

(III) individual or general permit for stormwater runoff from industrial facilities with specific standard industrial classification (SIC) codes \$80 (~~66~~)

(IV) individual or general permit for stormwater runoff associated with MS4s.

(V) individual or general permit for residually designated stormwater discharges

(aa) discharges to Class A water \$255/acre impervious surface, \$255 minimum.

(bb) discharges to Class B water \$80/acre impervious surface, \$80 minimum.

(v) indirect discharge or underground injection control excluding stormwater

(II) Non-sewage

(aa) Individual permit \$0.013/gallon of design capacity, \$250 (~~100~~) minimum, \$5,500 maximum.

(4) wastewater system including sewerage connection, potable water supply including connection to a public water supply fees range from \$240 to \$9,500 per application based on design flows.

(7) public water supply and bottled water permits and interim groundwater withdrawal permits.

(A) public water supply construction permit application, \$375 (~~275~~) per application plus \$0.0055/gallon design capacity. Amendments \$150 (~~110~~) per application.

(C) source permit application,

(i) community water system, \$945 (~~615~~)/source

(ii) transient non-community, \$385 (~~250~~)/source

(iii) non-transient, non-community \$770 (~~500~~)/source

(iv) amendment \$150 (~~110~~)/application

(D) public water supplies and bottled water facilities annually,

(i) community water system, \$0.0439 (~~0.0359~~)/1,000 gallons water produced annually

(ii) transient non-community, \$50 (~~45~~)

- (iii) non-transient, non-community \$0.0355 (0.0294)/1,000 gallons water produced annually, at least \$70
- (iv) bottled water, \$1390 (900)/permitted facility
- (E) amendment to bottled water facility \$150 (140)/application
- (F) commercial or industrial facilities permitted to withdraw groundwater, \$2300 (1500)/facility
- (8) public water system operators,
 - (A) Class 1A, 1B (not also permitted under transient non-community general permit), \$45
 - (B) all other classes, \$80
- (16) underground storage tanks \$125 (100)/year

City of Burlington: 2012 Key Legislative Issues

(* Highest priority items)

Education

- Education funding & financing
 - Maintain equity in education funding *
 - Protect Ed Fund *
 - Hold harmless renters and low-income people from prospective property tax reform proposals *
 - Maintain income sensitivity for education & municipal tax liability *
 - Monitor CLA adjustment, property valuation & tax exemption proposals *
 - Monitor Act 185 adjustments (privacy of property tax adjustment information)
 - Clarify fraternity tax exemption - require actual use
- Education policy
 - Monitor impact of Challenges & other cost containment proposals on schools *
 - Lift cap on funding for preschoolers *
 - Adjusted ADM for ELL and free and reduced lunch students *
 - Avoid cost shift to schools through adequate mental health & DCF funding
 - Properly fund special education mandates

Appropriations

- Effect of budget cuts on City budget & services, especially Corrections & Mental Health *
- PILOT funding *
- Maintain funding for downtown street outreach workers
- Oppose further cuts to municipal planning grants
- After-school programs: replace "21st Century" federal funding
- State funding for after school and summer programs that don't meet current eligibility criteria
- State financial support for public safety, incl. state & regional emergency response
- Funding for adult ELL

Transportation

- Funding for Champlain Parkway *
- State match for airport projects *
- Public transit & downtown transit center funding
- Rail issues: western corridor & rail yard relocation
- Bike bridge to Winooski & ferry/bridge for causeway

Capital bill

- Aviation tech center funding *
- Address school capital needs
- Monitor state office building moves
- Monitor VT State Hospital relocation

Environmental protection and permitting

- Monitor permit reform proposals
- Monitor storm water permitting
- Monitor Lake Champlain clean-up & implementation of Act 43, Total Maximum Daily Load (TMDL) / phosphorous discharge levels

- Eliminate State law PUD requirement for inclusionary zoning

Energy & Telecommunications

- PACE amendments *
- Monitor the progress of biomass energy legislation
- Follow resolutions to support in-state renewable generation
- Reduction of fuel tax on wood
- Monitor telecommunications issues

Health and welfare

- Health care reform (effect on municipalities & schools)

Local government

- Charter changes *
- Complexity of property tax administration
- Home rule
- Same day voter registration
- Authorization for local control commissions to impose administrative fines for liquor license violations

Public safety and corrections

- Funding for Community Justice Center & Offender Re-entry programs *
- Monitor Corrections Challenge *
- Enhance Department of Corrections supervision
- Expand authority/enforcement options for civil ticketing

Affordable housing

- Full funding for VT Housing & Conservation Board
- Increase emergency funding for homeless shelters & services
- Increase safety net funding through General Assistance & monitor program reform
- Maintain level funding for housing related programs and tax credits
- Support at-risk federally assisted housing preservation bill *
- Create statewide rental housing code enforcement system
- Maintain Vermont's housing delivery system
- Enabling legislation for municipalities to enforce fair housing laws (funding and penalties)

Economic development and job creation

- Support TIF amendments
- Support increased Downtown Program incentives
- Workforce training
- Continue moving towards livable wage
- Predatory lending: regulate rent-to-own lending